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Cont.P.No.243



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Contempt Petition No.243 of 2017

Kanthilal (died)

- 1.Vimala Devi
- 2.Ashwin
- 3.Pinky
- 4.Rinku
- 5.Dinal Kothari
- 6.Manisha
- 7.Santhosh

.. Petitioners

(Petitioners 1 to 7 brought on record as the legal heirs of the deceased petitioner Kanthilal, as per the order of this Court dated 16.12.2022 made in Sub.Appln.No.490 of 2022 in Cont.P.No.243 of 2017)

Vs.

- 1.Pushpa Devi

- 2.Kunal I.Tater

... Respondents

Prayer: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for wilfully disobeying the order passed by this Court dated 29.02.2016 in C.R.P.No.4833 of 2014.



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For Respondent : No appearance

ORDER

A batch of Civil Revision Petitions came to be filed before this Court. It related to production of the documents for handwriting expert. After hearing both sides, this Court vide order dated 29.02.2016 held as follows:

"10. Accordingly, C.R.P.Nos.4526 of 2015, C.R.P.Nos.45 and 46 of 2015 are dismissed. C.R.P.No.4833 of 2014 is allowed and the order of the learned trial Judge dated 24.07.2012 made in I.A.No.16148 of 2011 is set aside. The 2nd respondent/defendant shall produce the original settlement deed dated 26.03.2010 registered as document No.1416 of 2010 on the file of the SRO, Thirukazhukundram in the trial Court within two weeks from today and the trial Judge shall send the said document along with the disputed and all other documents which are relied on by the defendants as the documents containing admitted signatures to the Handwriting Expert for his opinion, irrespective of the fact that those documents were either considered by the Handwriting Expert or rejected as unsuitable for comparison to the State Forensic Lab, Chennai. After the receipt of the report from the Forensic Lab, the trial Court shall expedite the trial and complete the same not later than six months from the date of receipt of report from the Forensic Lab. No costs. Consequently, connected Miscellaneous Petitions are closed. "

2. Mr.M.Arvind Kumar, learned counsel for the contempt petitioners would submit that, despite a specific direction given by this Court, the 2nd respondent has not produced the original settlement deed in Document No.1416/2010 dated 26.03.2010 on the file of S.R.O., Tirukazhukundram. He would therefore state that it amounts to



violation of a direction given by this Court and attracts contempt of Court.

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3. If an order to produce the documents is not complied with, the trial Court is entitled to draw an adverse inference. This is exactly what the learned trial Judge has done by its proceedings dated 07.11.2016 in O.S.No.13097 of 2010. Drawing of an adverse inference, for non-compliance with a specific direction by an order of the Court, is the correct position of law. It is not for the parties to use the tool of contempt of Court to bring the adverse party to produce the document, which he or she does not want to produce.

4. While confirming the view of the learned trial Judge, I do not feel it is a case for contempt. Hence, the Contempt Petition is closed. No costs.

17.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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V.LAKSHMINARAYANAN,J.



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