



C.R.P.No.4128 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4128 of 2023

and

C.M.P.No. 25222 of 2023

M/s. Sonali,
A registered partnership firm,
Rep., by its Partner Mr. Amit K. Saiya,
58/2, Sir Theagaraya Road,
Pondy Bazar, T.Nagar,
Chennai – 600 017.

.. Petitioner

Vs

C. Balaji

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order of the learned XI Judge, Court of Small Causes, in E.A.SR.No.43398 of 2023 in E.A.No.2 of 2023 in E.P.No.391 of 2023 dated 18.10.2023 dismissing the petition filed by the petitioner to lead evidence in the Section 47 petition (E.A.No.2 of 2023) and to accordingly pass an order to permit the petitioner to let in evidence in E.A.No.2 of 2023 in E.P.No.391 of 2023 pending on the file of the learned XI Judge.



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For Petitioner : Mrs. Chitra Sampath, Senior Counsel
for NVS and Associates.

For Respondent : Mr. Kubendran
for Rank Associates.

ORDER

This Civil Revision Petition is filed to set aside the order of the learned XI Judge, Court of Small Causes, in E.A.SR.No.43398 of 2023 in E.A.No.2 of 2023 in E.P.No.391 of 2023 dated 18.10.2023 dismissing the petition filed by the petitioner to lead evidence in the Section 47 petition (E.A.No.2 of 2023) and accordingly pass an order to permit the petitioner to let in evidence in E.A.No.2 of 2023 in E.P.No.391 of 2023 pending on the file of the learned XI Judge.

2. The learned counsel for the revision petitioner submits that though they plead before the executing Court to record oral evidence restrict its claim now to mark the documents before the executing Court, to that effect she prayed for direction.



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3. The learned counsel for the respondent raised objection stating that already there was a finding in respect of the documents which they relied, therefore, the executing Court rightly observed that if necessary, they will give permission to adduce the evidence.

4. On considering the submission made by the learned counsel for the revision petitioner that she relying the document which are all the Court proceeding initiated between the parties and the other documents are sale deeds and settlement deed.

5. Therefore, this Court is of the considered view that the documents can be permitted to mark subject to proof and relevancy. However, the learned counsel for the respondent submits that it is no way connected with the proceeding pending before the executing Court, as it is beyond the scope of the execution of the decree. But liberty is granted to the respondent to raise such objection before the executing Court. The revision petitioner is permitted to produce the documents before the executing Court subject to the objection of the respondent and the trial Judge is directed to



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decide Section 47 CPC, by hearing both sides and as well as the objection on the side of the respondent and dispose the Section 47 application, within three weeks from the date of receipt of copy of this order, on merits and without adjourning the matter unnecessarily.

6. In the result, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

03.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The XI Court of Small Causes, Chennai



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T.V.THAMILSELVI, J.

AT

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C.M.P.No. 25222 of 2023

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