



C.M.P.No.21256 of ----
in C.M.A.No.553 of 2017

C.M.P.No.21256 of 2022
in C.M.A.No.553 of 2017

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T.V.THAMILSELVI, J.

The Civil Miscellaneous Petition has been filed under Section 151 of CPC to direct the learned Principal District Judge, Vellore, to return the documents marked by the petitioner in probate No.1 of 2012 in compliance with the order of this Court dated 18.11.2021 passed in C.M.A.No.553 of 2017.

2. Today when the matter is called, there is no representation on the side of the respondents.

3. Earlier, while disposing C.M.A.No.553 of 2017, this Court had given a finding that the Principal District Court, Vellore has no power to take on file the probate original petition with regard to the Will executed by the Christian, but, with regard to the genuineness of the Will, the parties concerned are bound to prove the Will by examining any one of the attestors, as per Section 68 of the Indian Evidence Act, which is mandatory. Hence, it is obligatory on the part of the petitioners/appellants to prove the execution of the Will. However, considering Section 213(2) of the Indian Succession Act, this Court dismissed the



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C.M.A. stating that the Original Petition itself is not maintainable and advised the petitioners/appellants to go for appropriate proceedings with a direction to get back the original marked documents from the Court, where they filed Probate O.P.

In such view of the matter, the learned Principal District Judge, Vellore, is directed to return the original marked documents to the petitioners/appellants within a period of two weeks from the date of receipt of a copy of this order, after getting necessary undertaking from the petitioners/appellants regarding receipt of marked documents.

23.01.2023

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Note: Issue copy of this order on 25.01.2023.



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To

The Principal District Judge,
Vellore.



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