



C.R.P.No. 4605 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4605 of 2023

and

C.M.P.No.27476 of 2023

Kannagi

... Petitioner

-Vs-

Karthik

...Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 11.09.2023 made in I.A.No.11 of 2023 in O.S.No.536 of 2016 on the file of II Addl. Sub-Court, Erode.

For Petitioner : Mr.S.Kaithamalai Kumaran



C.R.P.No. 4605 of 2023

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ORDER

Challenging the impugned order passed in I.A.No.11 of 2023 in O.S. No.536 of 2016 passed by the learned II Addl. Sub-Judge, Erode, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the revision petitioner/plaintiff filed a suit for declaration and permanent injunction against defendants 1 to 7. Now, the suit is ripe for trial. At that time, the respondent/2nd defendant filed an application to produce the original legal heir certificate of father of plaintiff. That application was contested by the Revision Petitioner/plaintiff stating that already the 2nd defendant purchased the property on 20.09.2012 and she is said to be second wife of his father. So, already the respondent/2nd defendant knew the relationship of 1st defendant and her father as well as legal heirs. Now, he prayed to produce the legal heir certificate of her father Ponnusamy as such is not maintainable. On considering both side submissions, the trial judge held that though the



C.R.P.No. 4605 of 2023

plaintiff is daughter of deceased Ponnusamy, she would have possessed the legal heir certificate, but the same has not been produced. Therefore, she was directed to produce the document before the trial court. Aggrieved over the same, the plaintiff preferred this Civil Revision Petition.

4. The learned counsel for revision petitioner would submit that since the trial court made an observation that she is daughter of deceased Ponnusamy, there is no necessity to show the legal heir certificate of deceased Ponnusamy. If at all, the 2nd defendant wanted to prove his relationship with the deceased Ponnusamy, he has to prove the same. So also, the 2nd defendant, who purchased the property from the 1st defendant. The objection raised by the revision petitioner/plaintiff as such is maintainable. If he wanted to peruse the legal heir certificate, already xerox copy of legal heir certificate of Ponnusamy was enclosed in the plaint. If at all the 2nd defendant wanted to peruse the legal heir certificate, he can very well verify the same as it is a public document. Therefore, the direction given to the revision petitioner/plaintiff to produce the document by the trial judge as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of trial



C.R.P.No. 4605 of 2023

judge in I.A.No.11 of 2023 in O.S.No.536 of 2016 is set aside. No costs.

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Consequently, the connected Civil Miscellaneous Petition is closed.

21.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The II Addl. Sub-Court, Erode.



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C.R.P.No. 4605 of 2023

T.V.THAMILSELVI, J.

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C.R.P.No. 4605 of 2023

21.12.2023