



C.R.P(MD)No.1788 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1788 of 2022

and

C.M.P(MD)No.7951 of 2022

SPGR.Mathavan(Died)

... Petitioner/Petitioner/
Plaintiff

2.Vijaya

3.Bhuvaneshwari

4.Kavitha

5.Ariharaprabhu

... Proposed Petitioners

*(4th Petitioner is represented by her power agent
5th petitioner)*

*(5th Petitioner is recognized as power agent on
behalf of the 4th petitioner vide Court order, dated
03.02.2023 made in C.M.P(MD)No.839 of 2023)*

*(P2 to P5 are brought on record as legal heirs of
the deceased sole petitioner vide Court order, dated
03.02.2023 in C.M.P(MD)No.837 of 2023)*

Vs.



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1.M/s.S.P.G.Ramasamy Nadar & Sons,
Exporters Cardomom, Chillied, Coffee,
Chicory & Medicinal Herbs,
A Partnership Firm,
Throught its Managing Partner
S.P.G.R.Nithyanandham.

2.S.P.G.R.Nithyanandam

3.S.P.G.R.Chandran

... Respondent/Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.6 of 2022 in O.S.No.54 of 2016 dated 22.08.2022 on the file of the Sub Court, Virudhunagar by allowing the Civil Revision Petition.

For Petitioner : M/s.G.K.Chitradevi

For Respondents : Mr.D.Nallathambi

ORDER

The present revision petition has been filed by the plaintiff in a suit for dissolution of partnership firm, challenging an order under Order 7 Rule 14 of Code of Civil Procedure, under which some of the documents presented belatedly by the plaintiff was rejected on the ground that they are photocopies.



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2. The plaintiff had filed an application under Order 7 Rule 14 (3) seeking permission of the Court to receive 18 documents. Out of the said 18 documents, the trial Court has allowed the application with regard to 8 documents which are either certified copies or originals. The trial Court has rejected 10 documents, for which only photocopies were presented before the Court. Challenging the said order, the present revision petition has been filed.

3. The learned counsel for the petitioners has contended that the documents that were rejected fall under 3 categories.

(i) The documents for which the petitioner could obtain certified copies.

(ii) The documents which are office copies of the letters sent by the petitioner falling under Section 62 of the Indian Evidence Act.

(iii) The documents that are in the custody of the other side.

4. Therefore, according to the learned counsel appearing for the petitioners, at the stage of reception of documents, the trial Court should not go into the issue of whether the documents is photocopy or not and should have allowed the application in its entirety.



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5. Per contra, the learned counsel appearing for the respondents has contended that when notice to produce was issued to the defendants, the defendants have specifically stated that these documents are not in their possession. Therefore, the question of invoking Section 65 of the Indian Evidence Act would not arise. The learned counsel appearing for the respondents has also contended that the photocopies cannot be received in evidence. Therefore, he requested the Court to sustain the order passed by the trial Court.

6. I have carefully considered the submissions made on either side.

7. Considering the fact that the documents that were rejected by the trial Court fall under 3 different heads, I do not find any illegality or infirmity in the order passed by the trial Court in rejecting to accept the photocopies of these documents. However, if the plaintiff is able to establish that these documents fall either under Section 62 or under Section 65 of the Indian Evidence Act, he can mark these documents. Therefore, the petitioner has to first approach the trial Court by filing an application either under Section 62 or 65 of the Indian Evidence Act to



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satisfy the ingredients of those sections, so that the Court could receive the documents. Based upon the result in those applications, the petitioner is at liberty to file a fresh application under Order 7 Rule 14 (3), if required.

8. With these observations, this petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Sub Court,
Virudhunagar.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.1788 of 2022

27.02.2023