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C.R.P.No.194 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.194 of 2021
and
C.M.P.No.1771 of 2021

1.S.Parvatham
2.S.Gopalakrishnan
3.Sangeetha

... Petitioners

Vs.

M.Gomathi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 06.02.2020 passed in I.A.No.01 of 2020 in O.S.No.465 of 2018 on the file of the Principal District Munsif, Erode.

For Petitioners : M/s.R.Harikrishnan
for Govind Chandrasekhar

For Respondent : Mr.Ranganathan Ganesh
for M/s.R.Karthikeyan



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners under Order XVI Rule 6 of Civil Procedure Code for issuing summons to Revenue Divisional Officer, Erode and Revenue Tahsildar, Modakurichi for production of certain official files.

2. The learned counsel for the petitioners submitted that petitioners herein filed a suit for declaration of right over the suit property and injunction in O.S.No.181 of 2019 and the respondent herein filed a suit for injunction in respect of the very same suit property in O.S.No.465 of 2018. Both the suits are tried together and in the written statement filed by the petitioners in O.S.No.465 of 2018, they referred about the act of respondent obliterating the suit canal and subsequent proceedings initiated by Revenue Divisional Officer for restoration of the canal. The instant application has been filed to issue summons to Revenue Divisional Officer and Tahsildar to produce the office files relating to the proceedings initiated by them in respect of the suit canal. It

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was claimed that the production of the said official records would help the Court to decide the case in a better way. The Court below dismissed the application filed by the petitioners on the ground that petitioners have got opportunity to get the certified copy of the official proceedings and mark the same before the Court and having failed to do so, they are not entitled to file the present application seeking production of original official documents.

3. Rule 75 of The Civil Rules of Practice reads as follows.

“75. Production of records in the custody of a public officer other than a Court:-

(1). A summons for the production of records in the custody of a public officer other than a Court shall be in Form No.23 and shall be addressed to the head of the department concerned and in the case of summons to a District Registrar or Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub-Registrar in whose office or sub-office, as the case may be, the required records are kept. A summons for the production of revenue papers kept in any office in a district shall in all cases be directed to the Collector of the District.

Provided that where the summons is for the



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production of village accounts, including filed measurement books, such summons shall be addressed to the Tahsildar or to the Deputy Tahsildar in independent charge as the case may be.

(2). Every application for such summons shall be made by a verified petition setting out (i) the document or documents the production of which is required; (ii) the relevancy of the document or documents; and (iii) in case where the production of a certified copy would answer the purpose, whether application was made to the proper officer for a certified copy or copies and the result of such application.

(3). No Court shall issue such a summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The Court shall in every case record its reasons in writing and shall require the applicant to deposit in Court, before the summons is issued, to abide the order of the Court, such sum as it may consider necessary, to meet the estimated cost of making a copy of the document when produced.

(4). On production of the documents in obedience to the summons, the Court, unless it thinks it necessary to retain the original shall directs a copy to be made at the



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expense of the applicant and shall with all convenient speed return the original retaining the copy.

(5). Unless the Court requires the production of the original, every such summons to a public officer shall state that he is at liberty to produce instead of the original, a copy certified in the manner prescribed by section 76 of the Indian Evidence Act, 1872.

(6). Nothing in the above rules prevent a Court of its own motion from issuing a summons for the production of public records or other documents in the custody of a public officer if it thinks it necessary for the ends of justice to do so. The Court shall in every case record its reasons in writing”.

4. A perusal of Rule 75(3) of Civil Rules of Practice would suggest that Court shall not issue summon for production of original official records unless it is satisfied that a person seeking such records filed an application for certified copy of the same and the same has not been granted. In the affidavit filed in support of the application, the petitioners have not stated anything about their attempt to get the certified copy of the official records and file it before the Court. When the petitioners have not taken any steps to get the



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certified copy of the official records, it is not open to them to maintain an application under Order XVI Rule 6 of CPC seeking production of original records from the custody of the officials. Therefore, the Court below rightly dismissed the application filed by the petitioners for their failure to comply with the mandate under Rule 75(3) of Civil Rules of Practice. I do not find anything to interfere with the order passed by the Court below. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The learned Principal District Munsif, Erode.



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S.SOUNTHAR, J.

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