



C.R.P.No.311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.311 of 2023
and CMP.No.2624 of 2023

R.Pannerselvam

... Petitioner

Vs

1.J.Vijaya
2.K.Radha

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 07.11.2022 passed in I.A.No.6 of 2022 in O.S.No.97 of 2022 on the file of the Principal District Court, Kancheepuram District at Chengalpattu.

For Petitioner : Mr.J.T.Ajitha
for Mr.K.Govi Ganesan

For Respondent : Mr.M.Rajasekar



C.R.P.No.311 of 2023

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ORDER

This revision arises against the order dated 07.11.2022 passed in I.A.No.6 of 2022 in O.S.No.97 of 2022 on the file of Principal District Court, Kancheepuram District at Chengalpattu. The revision petitioner is the plaintiff and the respondents are the defendants.

2.The suit in O.S.No.97 of 2022 is for specific performance of an agreement of sale alleged to have been entered into between the petitioner, Pannerselvam and the first defendant, Vijaya. Pending the suit, the plaintiff had taken out an application in I.A.No.6 of 2022 to mark the xerox copy of plaint document No.2, which is a settlement deed dated 20.06.2003 executed by one Kanagammal alias Lakshmiyammal in favour of the defendants, as exhibit A2.

3.The plaintiff wanted to mark the photostat copy of the said document and that was the prayer in I.A.No.6/2022. Neither the original nor the certified copy of the settlement deed was presented by the plaintiff for marking.



4. The learned Principal District Judge, Kancheepuram at Chengalpattu dismissed the said application on the ground that the xerox copy *per se* is a secondary evidence and as the original is with the plaintiff, it is always open to the plaintiff to produce a certified copy thereof and exhibit the same before the Court.

5. I do not find any reason to take a different view than that has been taken by the learned District Judge. The photostat copies of documents can be received in evidence only if the conditions under Section 65 of the Indian Evidence Act, are satisfied.

6. As seen from paragraph No.4 of the plaint, the settlement deed which was required to be marked by the plaintiff was a registered one. Therefore, nothing prevented the plaintiff from filing the certified copy of the said document and marking the same.

7. The learned counsel for the defendants/respondents is also agreeable to the said course of action and would state that if a certified copy of the settlement deed dated 20.06.2003 is filed, the same can be received in



C.R.P.No.311 of 2023

evidence in support of the suit.

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8. In the result, the civil revision is dismissed. However, the petitioner/plaintiff is granted four weeks time to obtain a certified copy of the settlement deed dated 20.06.2003 and file the same before the Court. No costs. Consequently, connected miscellaneous petition is closed.

11.06.2024

Index:Yes/No

Speaking order / Non-speaking orders

To:

1.The Principal District Judge
Kancheepuram District at Chengalpattu.

2.The Section Officer,
VR Section, High Court, Chennai.



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C.R.P.No.311 of 2023

V.LAKSHMINARAYANAN,J.

ds

C.R.P.No.311 of 2023

11.06.2024