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C.R.P.(PD).No.1503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.1503 of 2024 &
CMP.No.8119 of 2024

B.R.Chandra Babu (Deceased)

1.B.Dhanalakshmi

2.B.C.Balaji

3.B.C.Lakshmmi Shree

... Petitioners

-Versus-

1.Sri Ganapathy Sachchidanandha Trust,
Represented by the new trustee,
Mr.R.C.Udayashankar

2.R.Muthuraja

3.Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Aringnar Anna Nagar,
Chennai – 600 040.

4.P.Samraj Joseph

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India to set aside the order and decretal order in I.A.No.1 of 2021 in O.S.No.8120 of 2008 on the file of the V Assistant City Civil Court, Chennai dated 15.02.2024.



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For Petitioners : Mr.M.Sachin vijay

For Respondent 1 : Mr.N.K.Vanan

ORDER

The civil revision petitioner is the plaintiff in the suit filed in OS.No.8120 of 2008, which has been filed for recovery of possession.

2. Both sides agree that the suit is in the stage of arguments. At that stage, the first defendant filed an application for the return of Ex.B1 and Ex.B2, invoking the provisions of Order XIII Rule 9 of the Code of Civil Procedure. The learned judge allowed the application, against which the present revision.

3. Mr.M.Sachin Vijay, learned counsel appearing for the petitioner would submit that if the first defendant is permitted to take the documents away from the court, it will be contrary to Order XIII Rule 9(1)(a) and 9(1)(b) of Code of Civil Procedure.

4. A careful reading of Order XIII Rule 9 would show that a document cannot be returned by a court when the suit itself is pending, or when an appeal is allowed from the decree of the suit, or when the time for filing the appeal has not expired. Both of these clauses have proviso attached to them. As per the



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said proviso, a party who has filed a document before the court is entitled to take back the said document if he files a certified copy of the same document before the court.

5. In the present case, Mr.N.K.Vanan submits that the certified copies of Ex.B1 and Ex.B2 had in fact been produced before the court, and therefore, he states that he has complied with the provisions of Order XIII Rule 9 of the Code of Civil Procedure.

6. I am afraid that this is entirely a procedural matter in which this court, unless and until there is a grave infraction of the provision, should not interfere, while exercising the powers of revision.

7. As I have pointed out above, if certified copies of the documents, which the party wants to receive back, have been filed before the court, Order XIII Rule 9 empowers the court to pass such an order. That is what has been done in the present case. Therefore, I am not inclined to interfere with the order of the learned Trial Judge in I.A.No.1 of 2021 in O.S.No.8120 of 2008 dated 15.02.2024.



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8. As both sides submit that the suit is ripe for arguments, the learned V Assistant City Civil Judge, Chennai is requested to hear the arguments and pronounce the judgment on or before 30.06.2024.

9. With the above directions, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.04.2024

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Index : yes / no
Neutral Citation : yes / no
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To

The V Assistant City Civil Court, Chennai



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V.LAKSHMINARAYANAN, J.

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