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C.R.P.(PD).No.1900 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1900 of 2021

and

C.M.P. No.14792 of 2021

Anitha Kumaran

... Petitioner

Versus

1.Venkatraman

2.V. Babu

3.J. Roby

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 15.04.2021 passed in I.A.No.916 of 2019 in O.S.No.1788 of 2008 on the file of the District Munsif Court, Sriperumbudur.

For Petitioner : Mr. S.L. Sudarsanam

For Respondents : Mr. K. Narayanan (for R1)

: Mrs. Nalini Shanbakumari (for R2)

: No Appearance (for R3)



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ORDER

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This Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application in I.A.No.916 of 2019 in O.S.No.1788 of 2008 filed by the petitioner to issue Subpoena to Tashildar, Sriperumbudur for production of “A”-Register, Patta, Chitta, Adangal and etc., pertaining to the suit property in S.No.187/4.

2. The Trial Court dismissed the petition mainly on the ground that the sworn affidavit filed by the husband of the petitioner cannot be accepted, in the absence of leave of the Court permitting the husband of the petitioner to represent her in the suit.

3. In the petition filed to issue Subpoena, in support of the petition, the affidavit was filed by the husband of the petitioner. As per Section 120 of the Evidence Act, spouse of the party is entitled to depose on behalf of the party and hence, there is nothing wrong in husband of the petitioner swearing an affidavit in support of the petition.



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4. However, the prayer sought for by the petitioner cannot be granted on different reasons. The petitioner seeks issue of Subpoena to Tahsildar, Sriperambudur, only for the purpose of production of “A”-Register, Patta, Chitta and Adangal. Those documents are public documents and it is always open to the petitioner to get certified copies of the same, and produce them before the Court below.

5. Rule 75(3) of Civil Rules of Practice is extracted hereunder :-

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

(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.

.....”

6. A perusal of the above Rule would indicate that unless the Court is satisfied that the person who applied for issue of Subpoena, applied for certified copy of the public document and the same was refused, no Subpoena can be issued to the public officer for production of



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original records. In view of the non-compliance of Rule 75(3) of the Civil Rules of Practice, the petitioner is not entitled to maintain the application for issuance of Subpoena to the Public Officer. Therefore, I agree with the final conclusion of the Court below on different reasoning. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

7. The petitioner is at liberty to file certified copies of the above mentioned documents, within a period of four weeks from the date of receipt of a copy of this order.

21.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Case Citation : Yes / No

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To:

1.The Additional District Munsif Court, Poonamalee.



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S. SOUNTHAR. J.,

klr

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