



C.R.P.No.3912 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

CORAM

THE HONOURABLE THIRU JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P.No.3912 of 2024

C.Periyasamy

.... Petitioner

vs

1.Palanivel
2.Palaniammal
3.Shanthi
4.Manikandan
5.Logalakshmi
6.Mani
7.Kathirvelu
8.Kamala
9.Vasanth

..... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 25.03.2024 passed in ARD No.9 of 2024 in REA No.2 of 2020 in REP No.37 of 2018 on the file of District Munsif Court, Rasipuram.

For Petitioner : Mr.S.Varanesh



C.R.P.No.3912 of 2024

WEB COPY

ORDER

The Civil Revision Petition has been filed to set aside the order passed in ARD No.9 of 2024 in REA No.2 of 2020 in REP No.37/2018 dated 25.03.2024.

2. Learned counsel for the petitioner submits that the petitioner is a third party. He filed REA No.2 of 2020 in REP No.37 of 2018 on the file of District Munsif Court, Rasipouram. During the enquiry in REA No.2 of 2020, the petitioner had marked four documents as Exs.P.1 to P.2. However, the executing Court had dismissed REA No.2 of 2020 by order dated 12.07.2023. The petitioner, thereafter, filed ARD No.9 of 2024 under Order 13 Rule 9 of Civil Procedure Code, seeking for return of the documents filed in REA No.2 of 2020. The Executing Court, during the proceedings in REA No.2 of 2020, had not impounded the documents and in such circumstances, the Court is bound to return the documents when the conditions under Order 13 Rule 9 of Civil Procedure Code are fulfilled, whereas, the executing court has unnecessarily ordered notice to the respondents. Learned counsel for the petitioner also submits that the petitioner has also taken notice to the respondents and the notice has



C.R.P.No.3912 of 2024

been returned stating that “*no such address*” and the petitioner has been directed to take fresh notice. The petitioner is ready to take steps and the petitioner understands that the respondents are willfully evading appearance before the executing court to prevent the petitioner from getting back the documents which have been furnished before the Court. Due to the evading of the appearance by the respondents, the petitioner is unable to get the documents. The petitioner is also ready to give an undertaking that as and when the documents are required by the executing court, he is ready to substitute the original with the certified copies of the documents and in the event of the original being required he is ready to furnish the same.

3. Learned counsel for the petitioner would reiterate that reading of Order 13 Rule 9 of Civil Procedure Code makes it clear that a person, who produces the documents before the Court, is entitled to receive/get back the same, if he satisfies the circumstances contemplated under Order 13 Rule 9 of Civil Procedure Code. Learned counsel therefore seeks a direction may be issued to the concerned court to dispose of ARD No.9 of 2024 within a specified period.



C.R.P.No.3912 of 2024

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. For the sake of convenience, Order 13 Rule 9 of Civil Procedure Code is extracted hereunder:-

9. Return of admitted documents— (1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same,—

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of :

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor—

(a) delivers to the proper officer for being substituted for the original,—

(i) in the case of a party to the suit, a certified copy, and



C.R.P.No.3912 of 2024

(ii) in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and

(b) undertakes to produce the original, if required to do so :

Provided also, that no document shall be returned with, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.

6. A plain reading of the above provision makes it clear that any person whether a party to the suit or not, desirous of receiving back any document produced by him in Court is entitled to to receive / get back the same on the following circumstances:-

1. Sub Rule 1(a) deals with a case where the suit has been disposed of, against which no appeal is provided.

2.Sub Rule 1(b) contemplates where the appeal is allowed, if no appeal is filed within the time stipulated for preferring the appeal or appeal has been filed and is disposed of.



3.The proviso of Sub Rule 1 deals with the case which does not fall under the above mentioned two circumstances and that the document can be returned at any time earlier than that prescribed by Sub Rule 1, if a party substitutes a certified copy of the document, which is already marked and undertakes to produce the original if required to do so.

4. On an application being made by a party under the above proviso of [Order 13 Rule 9 CPC](#), the documents are necessarily returned if the application is in the proper form and the applicant is ready to comply with the conditions of substituting the certified copy of the document and undertaking to produce the original if required to do so.

7. In this case, admittedly, the petitioner has made an attempt to implead him in the Execution Proceedings and it has been rejected. The documents have not been impounded by the Court. The petitioner has also given an undertaking that he is ready to substitute the original with the certified copies of the



C.R.P.No.3912 of 2024

documents and in the event of the original being required, he is ready to furnish the same.

8. Admittedly, the documents have been produced by the petitioner himself and not by anyone and in such circumstances, this Court is of the opinion that the Executing Court ought not to have issued notice to the respondents. In view of the above, the Executing Court/District Munsif Court, Rasipuram is directed to take certified copies of the documents and return the original documents to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, the Civil Revision Petition is allowed. No costs.

03.10.2024

sr
Index:yes/no
website:yes/no

To

7/9



C.R.P.No.3912 of 2024

The District Munsif Court, Rasipuram

WEB COPY



WEB COPY



C.R.P.No.3912 of 2024

A.D.JAGADISH CHANDIRA,J.,

sr

CRP No.3912 of 2024

03.10.2024