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**C.R.P. No.3506 of 2022**

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 12.07.2024**

**CORAM**

**THE HONOURABLE Mr. JUSTICE P.DHANABAL**

**CRP.No.3506 of 2022**

Vasuki W/o. Rajendran

...Petitioner / Petitioner / 1st Defendant

Vs.

Chellam W/o. Balasubramanian

..... Respondent / Respondent / Plaintiff.

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order of rejection dated 21.12.2021 made in an unnumbered I.A. No..... of 2022 in O.S. No.40 of 2020 on the file of the Special Subordinate Court No.II, Jayankondam.

For Petitioner : Mr. D. Lakshmipathy

For Respondent : Mr. S. Sriram  
for Mr. P. Parthikannan

**ORDER**

The Civil Revision Petition is filed challenging the order passed in unnumbered I.A. in O.S. No.40 of 2020 on the file of the Special Subordinate Court No.II, Jayankondam, wherein the petitioner has filed a petition under Section 340 of Code of Criminal Procedure to enquire into the matter and to take action as per law and the same was rejected by the Trial Court.

2. According to the petitioner, the respondent herein has filed a Suit for



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declaration and for mandatory injunction. The said Suit was filed based on the forged and fabricated Will dated 15.10.2015. The stamp papers were purchased in the name of one Rajendran and the same was also revealed through reply received under Right to Information Act and thereby, the Will was forged and fabricated. Based on the forged documents, the Suit is filed and therefore, the matter has to be enquired by the Court under Section 340 of Code of Criminal Procedure, but the said application was rejected by the Trial Court. Therefore, the present petition is filed.

3. The learned counsel appearing for the petitioner would contend that the Suit was filed for declaration and permanent injunction against the petitioner with forged Will dated 15.10.2015 and stamp papers are also forged. While the Suit is pending, the said petition was filed by the petitioner to enquire the same under Section 340 of Code of Criminal Procedure, but the Trial Court without considering the same, rejected the application. Therefore, the order passed by the Trial Court is liable to be set aside.

4. The learned counsel appearing for the respondent would contend that the petitioner has filed the petition only to harass the respondent and they have not forged any document and the said Suit was dismissed for default and



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thereafter, the Suit was restored. When the Suit was dismissed for default, the present petition was filed before the Trial Court and the Trial Court has correctly rejected the petition. Therefore, the order passed by the Trial Court is in order and hence the present civil revision petition is liable to be dismissed.

5. Heard both sides'. Perused all the materials available on record.

6. According to the petitioner, the respondent filed a Suit before the Trial Court for the relief of declaration and mandatory injunction by relying forged documents before the Trial Court and thereby, he has committed offence. Hence the petitioner filed the impugned application to enquire into the matter under Section 340 of Code of Criminal Procedure. According to the respondent, the document submitted along with Plaint is genuine document and the Suit was dismissed for default by stating that the respondent did not take any steps for commencement of trial and later the Suit was restored and it is only for the petitioner to approach the Court concerned for enquiry under Section 340 of Code of Criminal Procedure, but the petitioner has filed a petition before the Trial Court, which is premature and therefore, the order passed by the Trial Court is to be confirmed.



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7. In this case, the petitioner has filed a petition under Section 340 of Code of Criminal Procedure to enquire into the matter alleging that the Will was forged and it was presented before the Court and the stamp papers also not produced in the name of the Plaintiff / respondent. In the stamp papers, there is a seal of Stamp papers' vendor Venkatesan. As per the reply received through Right to Information Act, the stamp papers were sold at Ariyalur Sub Registrar Office on 20.05.2016. Therefore, the said stamp papers dated 15.10.2015 are forged one. The said forgery has been committed before the Court and thereby, the petitioner has preferred a complaint before the Court.

8. It is an admitted fact that the Suit was dismissed for default on the date of presentation of this application. Hence the documents submitted before the Court has to be tested by the Court as to whether the document has been forged or not. Now the main Suit has been restored and the same is pending before the Court. Therefore, the petitioner can approach the Trial Court and establish his case that the documents submitted before the Court are forged documents and after establishing the same, he can approach the Trial Court by way of filing a proper application and not at this stage. Therefore, the order passed by the Trial Court is in order and the petitioner is at liberty to approach the Trial Court at appropriate time in accordance with



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9. With the above observations, the Civil Revision Petition is dismissed.

No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes/No  
Speaking order/non-speaking order  
mjs

**To**

The Special Subordinate Court No.II, Jayankondam.



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**P.DHANABAL, J.,**

mjs

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