



WEB COPY



C.R.P.No.3456 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.No.3456 of 2022
and
C.M.P.No.18423 of 2022

1. Padma
2. N.Baskar

... Petitioners

vs.

1. K.P.Kotteswaran

2. M/s.Sea Hawak Housing Private Limited,
Rep. by its Managing Director,
Mr.V.N.Devadoss
No.333, Ponnammallee High Road,
Amaindakarai, Chennai-600 029.

3. The Sub-Registrar,
Avadi, Chennai-600 054.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final order dated 10.06.2022 in I.A.No.257 of 2017 in O.S.No.400 of 2017 on the file of the Additional District Munsif, Poonammallee.



C.R.P.No.3456 of 2022

For Petitioner : Mr.R.Bharath Kumar
For Respondent 1 : Mr.A.Palaniappan
For Respondent 2 : Mr.A.Saravanan, No appearance
For Respondent 3 : Mr.Dr.S.Suriya
Additional Government Pleader

ORDER

This Civil Revision Petition has been filed by the petitioner, challenging the order, dated 10.06.2022 passed in I.A.No.257 of 2017 in O.S.No.400 of 2017, by the Additional District Munsif, Poonamallee, wherein, the petitioners herein have filed a petition before the Trial Court, to mark the Xerox Copy of the receipt dated 06.06.2007 as document on the side of the defendants. The said Interlocutory application was dismissed by the Trial Court.

2. Aggrieved by the said order, the present Civil Revision Petition has been filed.

3. According to the petitioner, the document was sent to Forensic Science Department for obtaining expert opinion through Advocate Commissioner. After comparison, the same was returned to concerned court for Court custody. While in Court custody, the said document was misplaced. Therefore, the petitioners wanted to mark the Xerox Copy of the receipt dated



C.R.P.No.3456 of 2022

06.06.2007 as document on the side of the defendants and filed a petition before the Trial Court. The said interlocutory application was dismissed by the trial Court. Therefore, the said document has to be marked as exhibits on the side of the defendants and the order passed by the Trial Court is liable to be set aside.

4. According to the Respondent, the Xerox Copy of the Document cannot be marked. The documents sent to the forensic department does not include any receipt dated 06.06.2007. There is no reference in the pleadings about the documents sought to be marked. Further, the trial court did not take any steps to reconstruct the documents in accordance with law. After receipt of the report from the Forensic Department, the said document was misplaced. Therefore, the Xerox copy of the document cannot be marked. Thereby, the Trial Court dismissed the petition on the ground that since the original document is not available, copy of the documents cannot be entertained. Therefore, the order of the trial court is in accordance with law.

5. The learned counsel for the petitioner would contend that the Xerox Copy of the receipt dated 06.06.2007, was already produced before the Court



C.R.P.No.3456 of 2022

for comparison of signatures found in the disputed document and the same was compared by the expert and after return of the documents from the Forensic Science Department, the said document had been in custody of Court. Later on the said document dated 06.06.2007 was misplaced and thereby in order to mark the photo copy of the document the interlocutory application was filed and the same was dismissed. Since the original document which produced before the trial court was misplaced, he produce the xerox copy of the said document. But the trial Court failed to mark the said document. Therefore, the order of the trial court is liable to be set aside.

6. The learned counsel appearing for the respondent would contend that the said Xerox copy of the said document has not been pleaded in the written statement. Prior to commencing of trial, the matter was referred to expert opinion and after receipt of the expert opinion, the said document was misplaced. Therefore, he objected to mark the documents in the trial court and the Trial Court has correctly dismissed the petition. Therefore, the order passed by the trial court is in order. This Civil Revision Petition is liable to be dismissed.

7. This Court heard both sides and perused the records.

8. In this case, the receipt dated 06.06.2007 was sent to Forensic Science



C.R.P.No.3456 of 2022

Department for comparison and thereafter it was returned to Court. While the document is under the custody of the Court, the said document was misplaced.

While so, it is the duty of the Court to reconstruct the documents after issuing notice to the both the parties. In this context, already this Court on administrative side issued a circular in respect of missing of documents by the Trial Court. The said circular was not followed by the Trial Court. This Court also received report from the concerned Trial court and the report does not disclosed as to what steps taken by the Trial court for reconstruction of documents. Therefore, it is the duty of Court for reconstruction of document in accordance with the circular issued by this Court.

9. Therefore, without going into merits of the case, it is appropriate to direct the Trial Court to reconstruct the documents in accordance with the circular issued by this Court on administrative side by adopting the procedures in that regard. After reconstruction of documents, the trial court has to decide whether the document has to be marked or not. It is for the respondent to make objections in respect of marking the documents and after affording opportunity to both the parties the Trial Court can decide the same. The learned Counsel for the respondent requested the Court to fix the time frame to dispose the main suit since it is pertaining to the year of 2007. Considering the nature and



C.R.P.No.3456 of 2022

pendency of the suit from the year 2007, this Court inclined to direct the Trial Court to dispose the case within a period of four months from the date of receipt of copy of this order.

10. With the above said direction, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

02.07.2024

gvn

Index :Yes/No

Internet : Yes/No

Neutral Citation :Yes/No

To:

1.The Additional District Munsif,
Poonamallee.

2.The Section Officer,



V.R.Section,
High Court of Madras.



C.R.P.No.3456 of 2022

P. DHANABAL, J.

gvn



WEB COPY



C.R.P.No.3456 of 2022

C.R.P.No.3456 of 2022

02.07.2024