



C.R.P.(NPD)No.298 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.298 of 2022

and

C.M.P.No.1425 of 2022

V.Janaki

.. Petitioner

Vs.

1.Manichandiran

2.Geetha

3.M.Purushothaman

4.M.Annapurani

.. Respondents

Prayer : The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 15.04.2021 passed in I.A.No.19 of 2021 in A.S.No.44 of 2017 on the file of the learned Subordinate Judge at Poonamallee.

For Petitioner : Mr.Ravi Kumar Paul
Senior Counsel for M/s.Paul and Paul

For R1 : Mr.R.Ragavendran

ORDER



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An appeal has been preferred from the judgment and decree passed in O.S.No.634 of 2004 on the file of the learned Additional District Munsif at Poonamallee dated 02.09.2016 to the file of the learned Subordinate Judge at Poonamallee in A.S.No.44 of 2017.

2. Pending disposal of the appeal, an application was taken out in I.A.No.19 of 2021 to receive a "Koor Chit" dated 08.08.1984 as an additional document in the appeal. The said application was allowed, against which the present revision.

3. Heard Mr.Ravi Kumar Paul, Senior Counsel representing M/s.Paul & Paul, appearing on behalf of the petitioner and Mr.R.Ragavendran, appearing on behalf of the 1st respondent.

4. The procedure that has to be followed in the disposal of an application under Order XLI Rule 27 of the Code of Civil Procedure is that the application must be taken up along with the appeal. If at the time of final disposal of the appeal, the learned Judge feels that the document is essential and would assist him in reaching a conclusion, it should be received in



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evidence. While receiving the document, the Court must follow the procedure under Order XLI Rule 28 of the Code of Civil Procedure.

5. The Supreme Court in ***Union of India vs. Ibrahim Uddin & Another [(2012) 8 SCC 148]*** had held that the petition under Order XLI Rule 28 of the Code of Civil Procedure must be tried only along with the appeal and not separately from it.

6. That procedure not having been followed in the present case, the order of the learned Subordinate Judge at Poonamallee in I.A.No.19 of 2021 in A.S.No.44 of 2017 dated 15.04.2021 is set aside. I.A.No.19 of 2021 is restored to the file of the learned Subordinate Judge at Poonamallee. If the learned Subordinate Judge feels that the said document is essential for the disposal of the appeal, she is always entitled to receive the same after hearing the arguments on merits of the document at the time of final disposal of the appeal.

7. With the above observations, the Civil Revision Petition stands



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allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

29.04.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

V. LAKSHMINARAYANAN, J.



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To

The learned Subordinate Judge,
Poonamallee

C.R.P.(NPD)No.298 of 2022
and
C.M.P.No.1425 of 2022

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