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C.M.P.No.13686 of 2017 in S.A.No.263 of 2011

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S.A.No.263 of 2011

V.SIVAGNANAM,J.

This petition is filed to send for the copy of the judgment and decree dated 18.12.1990, passed in O.S.No.230 of 1990, on the file of the Sub Court, Tiruppur.

2.The learned counsel for the petitioners submitted that the second appeal is filed by the appellants/petitioners against the judgment and decree dated 02.08.2010, passed in A.S.No.124 of 2008, on the file of the Ist Additional District Court, Coimbatore, confirming the judgment and decree dated 23.09.2008, passed in O.S.No.83 of 2004, on the file of the Sub Court, Tiruppur. The petitioners/plaintiffs filed O.S.No.83 of 2004, on the file of the Sub Court, Tiruppur, to declare the judgment and preliminary decree dated 18.12.1990, passed in O.S.No.230 of 1990 and the final decree dated 21.12.2000, on the file of the Sub Court, Tiruppur as null and void as it is obtained by fraud. He further submitted that during trial, they have not filed the judgment and decree passed in O.S.No.230 of 1990,



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instead of that, they had filed the suit extract in O.S.No.230 of 1990, which was marked as Ex.A5. Now, the learned counsel for the petitioners want to send for the copy of the judgment and decree dated 18.12.1990, passed in O.S.No.230 of 1990, on the file of the Sub Court, Tiruppur.

3.Considered the rival submissions and perused the records.

4.Admittedly, the judgment and preliminary decree dated 18.12.1990, passed in O.S.No.230 of 1990 and the final decree dated 21.12.2000, on the file of the Sub Court, Tiruppur, has been challenged to declare it as null and void. Unfortunately, the judgment and decree was not marked as an exhibit in the Courts below and no evidence was let in pertaining to the abovesaid judgment and decree in order to declare the same as null and void. In this circumstances, the suit filed in O.S.No.83 of 2004, has been dismissed by the Trial Court and the same is confirmed by the First Appellate Court.

5.At the second appeal stage, sending for the judgment and decree



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dated 18.12.1990, passed in O.S.No.230 of 1990, on the file of the Sub Court, Tiruppur, is not warranted and no purpose will be served in sending for the judgment and decree dated 18.12.1990, passed in O.S.No.230 of 1990, on the file of the Sub Court, Tiruppur. There are no merits in this petition and this petition deserves to be dismissed. Accordingly, this petition is dismissed.

6.Post the second appeal on 20.08.2024.

23.07.2024

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