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C.R.P.(PD).No.139 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.139 of 2023 &
C.M.P.No.1175 of 2023

R.Selvaraj ... Petitioner

-Versus-

K.Sumathi ... Respondent

Revision filed under Article 227 of Constitution of India to set aside the fair and final order dated 02.08.2022 passed in I.A.No.2 of 2022 in O.S.No.361 of 2017 on the file of the Additional District Munsif Court, Pollachi.

For Petitioner : *Ms.S.Akila*

For Respondent : *Mr.N.Umapathi*

ORDER

An application was filed in I.A.No.2 of 2022 in O.S.No.361 of 2017 under Order XIII Rule 9 of Code of Civil Procedure by the defendant seeking for return of the documents filed by him during the course of trial. The said application was dismissed, against which the present revision.



2. There is no dispute that the defendant had filed the original documents in order to substantiate his case. As the documents are in original, which have been presented in the court, he expressed his desire to take the documents with an undertaking that he will produce the original as and when required. In addition, the defendant also stated that he will substitute the documents with the certified copies thereof.

3. Under Order XIII Rule 9 of the Code of Civil Procedure, when a party desires for taking return of the documents, he or she is entitled for the same. If a document is returned prior to the disposal of the suit, the proviso to Order XIII Rule 9 of CPC operates. Under the proviso, the person applying for the return of the documents should deliver to the court, certified copies of the documents and should undertake to produce the originals as and when required. The party need not give reasons to the court as to why he or she wants to take return of the documents. All that he has to do when filing such an application is to express his desire to take back the originals.

4. Going through the affidavit, I find that the petitioner/defendant has stated that he wants to retain the originals with him and also given an



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undertaking to give the certified copies thereof. Dismissal of such an application is beyond the provisions of Order XIII Rule 9 of CPC.

5. For the aforesaid reasons, the order impugned is set aside. I.A.No.2 of 2022 in O.S.No.361 of 2017 on the file of the Additional District Munsif Court at Pollachi will stand allowed. The defendant will be entitled to take back the documents that had been filed by him after

(a) substituting the same with the certified copies and

(b) on executing an undertaking that he will produce the originals in case it is demanded by the court at a later date.

6. With the above directions, this civil revision petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

04.06.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

1.The Additional District Munsif Court, Pollachi.



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V.LAKSHMINARAYANAN, J.

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