



C.R.P.No.5091 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5091 of 2024

and

C.M.P.No.28519 of 2024

1.Chinnappa

2.S.Venkataramani

...

Petitioners

Vs.

Thirupathy

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the CRP and set aside the fair and decreetal order dated 14.10.2024 made in I.A.No.07 of 2023 in O.S.No.162 of 2019 passed by the Principal Subordinate Court, Krishnagiri.

For Petitioner : Ms.S.Ambika

ORDER

This civil revision petition challenges the order of the learned Principal Subordinate Judge, Krishnagiri, passed in I.A.No.07 of 2023 in O.S.No.162 of 2019, dated 14.10.2024.



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2.O.S.No.162 of 2019 is a suit for the following reliefs,

- a) cancelling the Deed No.2827/2016 registered on the file of Sub Registrar, Kaveripattinam on 14.10.2015 standing in the name of defendant,
- b) granting an order of permanent injunction restraining the defendant from alienating or encumbering the suit schedule mentioned property in favour of any third parties, in any manner whatsoever,
- c) granting an order of permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule mentioned property in any manner whatsoever.

3.A detailed written statement together with a counter-claim restraining the plaintiffs from interfering with the peaceful possession and the enjoyment of the property, has also been presented by the defendant. Parties went for trial, PW1 to PW3 have been examined. The suit is posted for continuation of cross examination of PW3.



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4.At that stage, an application was filed in I.A.No.7 of 2023 invoking Order VII Rule 14(3) of the Code of Civil Procedure to receive a compact disk containing the conversation between the defendant and PW3 on various dates was presented in the suit. The plaintiffs pleaded that if this document is received, it will help the Court in coming to a just conclusion in the suit. A counter was filed to the said application by the defendant. He pointed out that the mandatory requirements of Section 65B of the Indian Evidence Act had not been complied with in the present case. Apart from that, he also pointed out that in terms of the Indian Evidence Act, even if there were admissions, it is not conclusive, but would operate only as an estoppel.

5.The learned Trial Judge considered the affidavit and counter and dismissed the petition. Hence this revision.

6.I heard Ms.S.Ambika.



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7.Ms.Ambika points out that the plaintiff being an illiterate person had been cheated by the defendant. Originally, the defendant had given a loan to the plaintiffs, which they were servicing till 2018. Thereafter, the defendant under the guise of execution of a mortgage deed, obtained a sale deed. She claims that the plaintiffs continue to be in possession of the property and that this compact disk would enable the plaintiffs to disprove the case pleaded by the defendant.

8.I have carefully considered the submissions of Ms.S.Ambika.

9.No amount of evidence can be considered unless and until there is a specific plea to that effect. Secondly, the compact disk, being a recording of the conversation, said to have taken place between PW3 and the defendant, it necessarily requires certification under Section 65B of the Indian Evidence Act. The primary evidence being the device, which was used to record the conversation not having been produced before the Court, it is necessary to have a certificate under Section 65B.



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10.It is not in dispute that the application filed was only under Order VII Rule 14 (3) of the Code. The compact disk was not accompanied with the certificate required as aforesaid. The Indian Evidence Act bars the Court from receiving electronic evidence or electronic documents when the same are not accompanied by the said certificate. In addition, the learned Principal Subordinate Judge has pointed out that absolutely no details have been given as to when, how and in what manner, the conversation had taken place or how it was recorded.

11.That being the position, I do not find any reason to take a different view than the one taken by the learned Principal Subordinate Court, Krishnagiri. Accordingly, the civil revision petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No

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V.LAKSHMINARAYANAN,J.

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To:

The Principal Subordinate Court,
Krishnagiri.

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