



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.796 of 2021

and

C.M.P.(MD)No.4293 of 2021

Sesadimai

... Petitioner

vs.

Hassan Kannu

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 02.02.2021 passed in I.A.No.1 of 2019 in A.S.No.96 of 2018 on the file of the Subordinate Court, Kuzhithurai in O.S.No.147 of 2016 on the file of the District Munsif, Kuzhithurai.

For Petitioner :Ms.J.Anandhavalli

For Respondent :Mr.K.N.Thampi



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ORDER

The Civil Revision Petition has been filed challenging the order passed by the learned Subordinate Judge, Kuzhithurai in I.A.No.1 of 2019 in A.S.No.96 of 2018, dated 02.02.2021.

2.The petitioner is the plaintiff in O.S.No.147 of 2016 on the file of the District Munsif Court, Kuzhithurai. The suit was filed for permanent injunction and other for reliefs. The plaint was rejected under Order VII Rule 11 CPC. Against which, the plaintiff filed an appeal in A.S.No.96 of 2018. During the pendency of the appeal, the petitioner/plaintiff filed an appeal in I.A.No.1 of 2019 under Section 151 CPC to return Ex-A1, original sale deed for the purpose of obtaining loan from the bank. The appellate Court had dismissed the application by recording the following reasons:

“The petitioners/plaintiff filed the sale deed under serious dispute of the Ext. A1 sale deed and the suit was rejected under Order 7. Rule 11 CPC and suit on the basis against which this appeal is filed. Further the respondent has averred about previous suit in O.S.No. 5/1999 and its Appeal in A.S.No.61/2002. The trial court has held that the Ext.A1 is a invalid document. Therefore returning the original Ext.A1 to the petitioner for the purpose of



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obtaining bank loan would create further encumbrance in the suit property. Moreover Ext.A1 is now super seeded by a decree which is under challenge in this Appeal. Hence without deciding the validity of Ext. A1, in this Appeal, the Ext. A1 cannot be returned. Now the appeal is ready for disposal and it is pending for argument and petitioner can very well press for the disposal of the appeal. Therefore at this stage this petition cannot be allowed and the same will be dismissed.”

3. Aggrieved by the same, the present Civil Revision Petition is filed.

4. The learned Counsel for the petitioner contended that the return of document is sought only for the simple reason to obtain a bank loan and it will not cause prejudice to the suit as well as to the defendant.

5. *Per contrrra*, the learned Counsel appearing for the respondent/defendant contended that if the document is returned, which is the subject matter of the suit, it will cause irreparable loss.

5. Though the original suit was filed in the year 2016, it is seen from the order passed by the appellate Court that the appeal itself is ready for final hearing. In view of the same, the Civil Revision Petition is disposed of with a direction to



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the learned first appellate Court to dispose the appeal within a period of six months from the date of receipt of a copy of this order. No costs.

21.11.2024

Internet :Yes/No
NCC :Yes/No
Index :Yes/No

To

- 1.The Subordinate Judge, Kuzhithurai.
- 2.The District Munsif, Kuzhithurai.



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N.SENTHILKUMAR, J.

cmr

Order made in
C.R.P.(MD)(PD)No.796 of 2021

21.11.2024