



C.R.P(MD)No.1420 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No. 1420 of 2023

and

C.M.P(MD)No.7111 of 2023

Mohan

...Petitioner

Vs.

1.Easwaran

2.Pichai Ammal

....Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call or the records relating to the impugned fair and decreetal order dated 20.12.2022 made in I.A.No.7 of 2022 in O.S.No.16 of 2020 on the file of the District Munsif Court / Judicial Magistrate, Thiruppuvanam, set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr. S.Srinivasa Raghavan

For Respondents : No appearance



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ORDER

This Civil Revision Petition is filed to call or the records relating to the impugned fair and decreetal order dated 20.12.2022 made in I.A.No.7 of 2022 in O.S.No.16 of 2020 on the file of the District Munsif Court / Judicial Magistrate, Thiruppuvanam, set aside the same and allow this Civil Revision Petition.

2. The facts in brief is that O.S.No.16 of 2020 was filed by the revision petitioner namely Mohan against the respondent herein seeking the relief of declaration that the document No.3342 of 2019 is not valid under law and for consequential injunction. Pending the process, a petition was taken out by the petitioner to summon the VAO for producing the Adangal, Chitta, sketch along with the certified copies, with the following averment : It is stated by the defendant that the patta in Survey No.76 /13, 76/14 are transferred in the name of the defendants. For proving the same, the above said



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documents are required. Apart from that the oral evidence that was resisted by the respondent stating that without approaching the concerned Court, for getting certified copies, the petition is filed.

3. The trial Court by relying upon Rule 75 of Civil Rules of practice, dismissed the application against which this Civil Revision Petition has been preferred.

4. Learned counsel for the petitioner would submit that he will comply Rule of practice which reads as follows:

" 75. Production of records in the custody of a public officer other than a Court. - (1)A summon for the production of records in the custody of a public officer other than a court shall be in Form No.23 and shall be addressed to the head of the department concerned and in the case of summons to a District Registrar or a Sub Registrar of Assurances, if shall be addressed to the Registrar or Sub-Registrar in whose office or sub-office, as the case may be, the required records are kept. A summons for the production of revenue papers kept in



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any office in a district shall in all cases be directed to the Collector of the district:

Provided that, where the summons is for the production of village accounts, including field measurement books, such summons shall be addressed to the Tahsildar or to the Deputy Tahsildar in independent charge, as the case may be.

(2) Every application for such summons shall be made by a verified petition setting out (i) the document or documents the production of which is required; (ii) the relevancy of the document or documents; and (iii) in cases where the production of a certified copy would answer the purpose, whether application was made to the proper officer for a certified copy of copies and the result of such application.

(3) No court shall issue such a summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The Court shall in every case record its reasons in writing and shall require the applicant to deposit in court, before the summons is issued, to abide the order of the court, such sum as it may consider necessary, to meet the estimated cost of making a copy of the document when



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produced.

(4) On production of the documents in obedience to the summons the court unless it thinks it necessary to retain the original shall direct a copy to be made at the expense of the applicant, and shall with all convenient speed return the original retaining the copy.

(5) Unless the court requires the production of the original every such summons to a public officer shall state that he is at liberty to produce instead of the original a copy certified in the manner prescribed by Section 76 of the Indian Evidence Act, 1872.

(6) Nothing in the above rules shall prevent a court of its own motion from issuing a summons for the production of public records or other documents in the custody of a public officer if it thinks it necessary for the ends of justice to do so. The court shall in every case record its reasons in writing."

5. Reading of the Rule makes the position very clear that the petitioner has to first approach the concerned Public authority for certified copies then only he can summon the VAO for proving the document. Since the first steps is not taken by the petitioner, it is



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rightly dismissed by the trial Court. Now the learned counsel for the petitioner undertakes that he will first comply the first step and after obtaining the certified copies, he will file proper application to examine the concerned VAO for proving the documents. Producing the documents is entirely different from proving the document. For the purpose of proving the documents, the authority who issued the same can be examined on the side of the petitioner.

6. In view of the undertaking given by the petitioner, this Civil Revision Petition is disposed of with the above said liberty. No costs. Consequently, connected miscellaneous petition stands closed.

21.02.2024

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

- 1.The District Munsif Court / Judicial Magistrate, Thiruppuvanam.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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G. ILANGO VAN, J.

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