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C.R.P.(MD)No.1746 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).Nos.1746 to 1748 of 2024 and
C.M.P.(MD)No.10070, 10072 & 10073 of 2024

N.Gnanasekaran

... Petitioner/Petitioner/Plaintiff
in all CRPs.

Vs.

G.Kamalakannan

... Respondent/Respondent/
Defendant in all CRPs.

COMMON PRAYER : Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.Nos.59, 60 and 61 of 2024 in O.S.No.360 of 2021 on the file of the II Additional Sub Court, Madurai dated 25.03.2024.

(in all C.R.Ps.)

For Petitioner : Mr.F.X.Eugene

For Respondent : Mr.c.Sundaravadivel



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COMMON ORDER

Heard both sides.

2. The plaintiff in O.S.No.360 of 2021 on the file of the II Additional Sub Court, Madurai is the revision petitioner in this revision petition. He filed redemption suit. The petitioner filed I.A.Nos.59, 60 and 61 of 2024 for reopening of the suit, recalling himself for examining P.W.1 and seeking permission to mark certain documents. IAs were dismissed vide order dated 25.03.2024. Challenging the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to set aside the impugned orders and grant relief as prayed for.

4. Per contra, the learned counsel appearing for the defendant submitted that the impugned orders are well reasoned and they do not warrant interference.



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5. I carefully considered the rival contentions and went through the materials on record.

6. The revision petitioner wants this Court to mark the death certificate of his father and the police complaint given by the defendant's daughter and few other documents.

7. The petitioner had obtained documents from the jurisdictional police under the Right to Information Act. The Court below has dismissed the IAs on two grounds; a) filing of the application is belated and b) the documents obtained under the Right to Information Act cannot be marked by the plaintiff. The suit itself is of the year 2021. The documents that are sought to be marked by the plaintiff do appear to have bearing on the issues raised in the suit. My attention is drawn to Sections 76 and 77 of the Indian Evidence Act, 1872. They read as follows:-

“76. Certified copies of public documents.—

Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of



the legal fees there for, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation.—Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77. Proof of documents by production of certified copies.—Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.”

8. Having obtained the certified copies of public documents, the petitioner is definitely entitled to mark the same subject to proof and relevancy. The defendant has taken the stand that the suit property was gifted in his favour by the father of the plaintiff. The plaintiff therefore wanted to mark the death certificate of his father controverting the said assertion.



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9. I am of the view that the dismissal of the IAs filed by the plaintiff is not in order. It is true that these documents could have been produced by the plaintiff when the trial took place. The petitioner's counsel would state that since time was taken to get the documents under the Right to Information Act, they could not have been produced at the time of trial.

10. I am satisfied that granting permission to the plaintiff to mark these documents would facilitate proper adjudication of the suit. In this view of the matter, the orders impugned in the civil revision petitions are set aside. These civil revision petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

27.08.2024

Index : yes/No
Internet: Yes/No
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C.R.P.(MD)No.1746 of 2024

G.R.SWAMINATHAN,J.

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To

1. The II Additional Sub Judge,
Madurai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(MD)Nos.1746 to 1748 of 2024

27.08.2024