



C.R.P.(MD)No.1693 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 05.12.2023

Delivered on : 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.1693 of 2023

Loganathan @ Chinnakaruppan : Petitioner/Petitioner/Plaintiff

Vs.

Kanagambal (died)

1.Pragalathan

2.Chinnaiyan : Respondents/Respondents/Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.7 of 2022 in O.S.No.12 of 2015 on the file of the Additional District Munsif Court, Lalgudi, dated 27.03.2023.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.Abul Kalam Azad



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4. The case of the revision petitioner is that the original release deed, dated 30.01.2012 is required for getting loan from the bank; that he has already produced the certified copy of the said document before the Court and that the plaintiff would be put to irreparable loss and hardship, if the document is not returned to him.

5. The respondents/defendants have filed a counter statement raising objections stating that the parties cannot be allowed to encumber the suit properties during pendency of the suit; that the plaintiff by creating a fabricated document has filed the above suit and that therefore, the plaintiff is not entitled to get back the document at this point of time and as such, the petition is liable to be dismissed.

6. The learned Additional District Munsif, after enquiry, has passed the impugned order, dated 27.03.2023, dismissing the petition. Aggrieved by the said order, the plaintiff has preferred the present revision. The learned trial Judge, by observing that title to the suit property has to be determined, that the Court has also to decide as to whether the document



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sought for is a valid document; that the defendants have claimed a specific relief that the alleged release deed is invalid in the connected suit in O.S.No.351 of 2012, dismissed the petition. At this juncture, it is necessary to refer Order 13 Rule 9 C.P.C.

“9. Return of admitted documents.- (1) Any person, whether a party to the Suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same-

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of:

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying there for-

(a) delivers to the proper officer for being substituted for the original,— (I) in the case of a party to the suit, a certified copy, and

(ii) in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and

(b) undertakes to produce the original, if required to do so:

Provided also, that no document shall be returned which, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.”



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7. The learned counsel for the petitioner has also relied on the judgment of this Court in ***Chenthilkumar Vs. Kottar Ezhavar Samudaya Vagai Arumugaperumal Pillayarswamy Temple, Kottar and others*** in ***C.R.P(MD)No.536 of 2021, dated 26.07.2021*** and the relevant passages are extracted hereunder :

“8. A reading of the above provision makes it clear that a person who produces a document in the court is entitled to receive / get back the same on the following circumstances:

1. Sub Rule 1(a) deals with a case where the suit has been disposed of, against which no appeal is provided.

2.Sub Rule 1(b) contemplates where the appeal is allowed, if no appeal is filed within the time stipulated for preferring the appeal or appeal has been filed and is disposed of.

3.The proviso of Sub Rule 1 deals with the case which does not fall under the above mentioned two circumstances and that the document can be returned at any time earlier than that prescribed by Sub Rule 1,



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if a party substitutes a certified copy of the document, which is already marked and undertakes to produce the original if required to do so.

9. On an application being made by a party under the above proviso of Order 13 Rule 9 CPC, the documents are necessarily returned if the application is in the proper form and the applicant is ready to comply with the conditions of substituting the certified copy of the document and undertaking to produce the original if required to do so.

10. The contention of the first respondent that in case if the petitioner is permitted to get back the original sale deed, there is every possibility of the petitioner making alienation or encumbrances over the suit property or mutation of revenue records as alleged by the petitioner himself and consequently, the right and interest of the plaintiff will get affected and that therefore, the revision petitioner is not entitled to receive the document or in case if the Court is inclined to return the document, necessary condition has to be imposed restraining him from making alienation or encumbrance or a mutation of revenue records.

11. No doubt, the plaintiff has filed the suit for recovery of possession of the suit property and for permanent injunction restraining the revision petitioner from causing alienation or



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encumbrances over the suit property. According to the plaintiff, the document sought to be returned is a legally invalid document and no right was accrued on the revision petitioner through the said sale deed. If that be the case of the plaintiff, I am at loss to understand as to why the plaintiff has been opposing the revision petitioner to get his documents. In the case on hand, as already pointed out, the plaintiff has filed the certified copy of Ex.B2 along with the petition under Order 13 Rule 9 CPC. Moreover, in the affidavit filed in support of the above petition, he has given a specific undertaking for the purpose of production of the original sale deed as and when called upon by the Court. Since the conditions are complied by the revision petitioner, required under the proviso Sub Rule 1 of Order 13 Rule 9 CPC he certainly entitled to get back his original document and hence, the decision of the trial Court in dismissing the petition is not good in law and the same is liable to be set aside.

8. The above decision is squarely applicable to the case on hand also. In the case on hand, the plaintiff has filed the suit to declare that the suit property is belonging to the plaintiff and for permanent injunction restraining the defendants from in any manner interfering with the peaceful possession and enjoyment of the property.



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9. As already pointed out, according to the defendants, the said document i.e., release deed, dated 30.01.2012 is legally invalid document and the same cannot be looked into for any purpose. If that be the stand of the defendants, this Court is at loss to understand as to why the defendants have been opposing the revision petitioner to get the document. In the present case, the plaintiff has already produced the certified copy of release deed along with petition filed under Order 13 Rule 9 C.P.C.

10. No doubt, the revision petitioner/plaintiff has not given a specific undertaking for the production of document as and when called upon by the Court. Since the other conditions contemplated under the proviso Sub Rule 1 of Order 13 Rule 9 C.P.C., are complied, this Court is of the view that the document can be returned to the plaintiff with a direction to the plaintiff to give a specific undertaking for the production of original document as and when called upon by the Court. Considering the above, the impugned order dismissing the petition is not good in law and the same is liable to be set aside.



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11. In the result, the Civil Revision Petition is allowed and the impugned order passed in I.A.No.7 of 2022 in O.S.No.12 of 2015, dated 27.03.2023 on the file of the Additional District Munsif Court, Lalgudi, is set aside. The trial Court is directed to return the original release deed, dated 30.01.2012 on getting a specific undertaking from the plaintiff that he will produce the document as and when called upon by the Court. No costs.

26.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The Additional District Munsif Court,
Lalgudi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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Dated : 26.02.2024