



CMP(MD) No.9832 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty Ninth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

C.M.P.(MD)No.9832 of 2024
in
SA.(MD)No.963 of 2014

1 FRANKLIN SWAMIDHAS

2 SHYNI DEVAKRIPA

3 SELVABHAI

4 PARIMALA

5 GODSON

...PETITIONERS/ APPELLANTS

Vs

1 R.S.SUDHAKUMAR

2 R.S.PRABHAKUMARI

3 R.S.VASANTHAKUMARI

4 R.S.PADMAKUMARI

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to return the documents in respect of Ex-B3, Ex-B4 and Ex-B5 marked before the Trial Court in O.S.No.97 of 2005 on the file of the 2nd Additional District Munsif Court, Kuzhithurai to the petitioner and thus render justice.



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WIPRAYER IN SA.(MD)No.963 of 2014:

To prefer this following Memorandum of Grounds of Second Appeal against the Decree and Judgment passed in A.S.No.88 of 2011. on the file of Sub Court, Kuzhithurai, dated 30.01.2014 confirming the Judgment and Decree made in O.S.No.97 of 2005. On the file of 2nd Additional District Munsif, Kuzhithurai, dated 06.07.2011.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.H.THAYUMANASWAMY, Advocate for the petitioners and of MR.V.M.BALAMOHAN THAMBI, on behalf of the Respondents 1 to 4, the court made the following order:-

This Criminal Original Petition has been filed to return the documents in respect of Ex-B3, Ex-B4 and Ex-B5, which were marked before the trial Court in O.S.No.97 of 2005 on the file of the 2nd Additional District Munsif Court, Kuzhithurai to the petitioner.

2.The learned counsel for the petitioners submitted that the respondents herein filed a suit in O.S.No.97 of 2005 before the file of the 2nd Additional District Munsif Court, Kuzhithurai and the same was partly decreed in favour of the respondents. Hence, the the petitioners filed First Appeal in A.S.No.88 of 2011 before the Sub Court, Kuzhithurai and the same was dismissed by confirming judgment and decree of the trial Court. Challenging the same, second appeal was filed in S.A.(MD)No.963 of 2014 before this Court and the same is pending. Now, since the petitioners are



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going to make some family arrangement, they need the original documents namely, Gift deed dated 12.01.1967, Tamil Copy of Deed dated 12.01.1967 and Exchange deed dated 23.04.1984, which were marked as Ex.B3, Ex.B4 and Ex.B5. Hence, this petition.

3. The learned counsel for the petitioners herein submitted that since the petitioners are going to make family arrangement, there is need of the Gift deed dated 12.01.1967, Tamil Copy of Deed dated 12.01.1967 and Exchange deed dated 23.04.1984, which were marked as Ex.B3, Ex.B4 and Ex.B5 before the trial Court. Therefore, he prays for return of these three documents.

4. The learned counsel for the respondents herein has raised objections stating that if the documents are returned to the petitioners, they will alienate the properties, which would cause prejudice to the rights of the respondents herein. Therefore, he prayed for not to return the documents.

5. Though the second appeal is pending before this Court, the respondents herein has the benefit of decree in the suit as well as in the first appeal. Therefore, this Court is of the view that the Gift deed dated 12.01.1967, Tamil Copy of Deed dated 12.01.1967 and Exchange deed dated 23.04.1984, which were marked as Ex.B3, Ex.B4 and Ex.B5, are not required for adjudication of the second appeal. Further, the petitioners herein have also enclosed certified copies of those three documents.



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6. Accordingly, this petition is allowed.

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(*)7. It is seen that the records have already been received from the trial Court in the year 2014 itself.

8. Therefore, the Registry is directed to return the Gift deed dated 12.01.1967, Tamil Copy of Deed dated 12.01.1967 and Exchange deed dated 23.04.1984, which were marked as Ex.B3, Ex.B4 and Ex.B5 in O.S.No.97 of 2005 to the petitioners, after getting an undertaking affidavit that they will produce the said documents as and when required. It is made clear that pending the second appeal, the petitioners shall not alienate the suit schedule property.

sd/-
29/07/2024

(*)CORRECTED AS PER ORDER OF THE
COURT DATED 22.08.2024 IN CMP(MD)
NO.9832 OF 2024 IN SA(MD)NO.963 OF 2024

/ TRUE COPY /

30/08/2024

Sub-Assistant Registrar (CS-I/ II/ III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss



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TO

TO BE SUBSTITUTED WITH THE ORDER DATED 29/07/2024 ALREADY
DESPATCHED

1.THE SUBORDINATE JUDGE, KUZHITHURAI.

2.THE 2ND ADDITIONAL DISTRICT MUNSIF, KUZHITHURAI.

COPY TO

THE SECTION OFFICER,
V.R.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 cc to MR.H.THAYUMANASWAMY, Advocate SR No.38924(F) dated 30.07.2024

ORDER
IN
C.M.P.(MD)No.9832 of 2024
in
SA.(MD)No.963 of 2014
Date :29/07/2024

RK (05/08/2024) 5P / 5C

RK(30.08.2024) 5P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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