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C.R.P.(MD)No.2226 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.10.2024

PRONOUNCED ON : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.2226 of 2024

1.Arul Vimalamary

2.Minor Ramal Antony

... Petitioners /Petitioners /
Plaintiffs

Vs

1.Mr.Rai Sagayaraj

2.A.Infanda Jesus Mary

3.Salath

4.V.Saravanan

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.06.2024 in I.A No.2 of 2022 in O.S No.163 of 2019 on the file of the Principal District Court, Dindigul.



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For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : Mrs.P.Jessi Jeeva Priya
for R1 to R3

ORDER

Heard both sides.

2.The plaintiffs in O.S No.163 of 2019 on the file of the Principal District Court, Dindigul are the revision petitioners herein. In the said suit, the petitioners filed I.A No.2 of 2024 under Order VII Rule 11 of CPC seeking leave to produce the mobile phone containing the recorded conversation between the parties as evidence. The I.A was dismissed on the ground that the application was bereft of particulars. Challenging the dismissal order dated 07.06.2024, this civil revision petition has been filed.

3.The petitioners filed an affidavit. Paragraph 5 of the same reads as follows :



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5. I humbly submit that when the matter taken up for hearing on 23.10.2024, this Honourable Court directed me to furnish the particulars of the mobile phone produced before the trial court. The particulars are given below,

Brand : Samsung
Model No : Galaxy Note 4
Mobile No : 99948 56551
Service provider : Airtel
Ownership of the phone : Arul Vimala Mary (Plaintiff)
Date & time of the Conversation : 18.04.2019 & 11.26 AM
Folder Name : Recordings
File Name : Roy angel full talk.mp3
File size : 21.76 MB
Duration : 22.39 mins.
Roy Sahayaraj (1st Defendant): 99420 10270.

Since I am not aware of the IMEI number and how to trace it from a mobile device, I have not noted it when I submitted the mobile before the trial court.

The petitioner wants to produce the mobile phone itself containing the recording. It is primary evidence. Therefore, the question of furnishing any certificate under Section 65B(4) of the Indian Evidence Act is not required. The lacuna originally noticed by the trial court has been set right. In the interest of justice, the impugned order is set aside.



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4.This civil revision petition is allowed. No costs.

19.11.2024

Index : Yes/No

Internet:Yes/No

SKM

To

1.The Principal District Judge, Dindigul.



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G.R.SWAMINATHAN, J.

SKM

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19.11.2024