



CRP No.1248 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.07.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No.1248 of 2025 and CMP No.7499 of 2025

Sekar

... Petitioner

VS

1.Prema

2.Dr.Ravichandran

.. Respondents

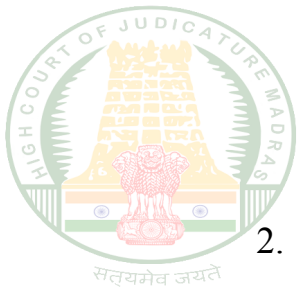
Revisions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 06.02.2025 passed in I.A.No.4 of 2024 in O.S.No.30 of 2021 on the file of Subordinate Court, Karaikal.

For Petitioner : Ms.H.Kavitha

For Respondents : Ms.Thejashwini
For Mr.P.Dinesh Kumar

ORDER

The revision petition is filed at the instance of the plaintiff who had filed I.A.No.4 of 2024 under Section 60(A) and (C) of Bharathiya Sakshya Adhiniyam, 2023.



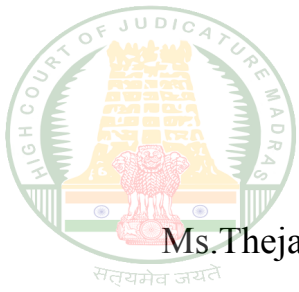
CRP No.1248 of 2025

2. The plaintiff attempted to produce and mark a photostat copy of the survey sketch. According to the plaintiff, the original was not available with the petitioner and he attempted to get certified copy from the officials concerned. However, the old records have been destroyed. And hence, the plaintiff was not in a position to get certified copy. The petitioner/plaintiff therefore sought leave of the Court to mark a photostat copy.

3. The application was opposed by the defendants contending that there is no plausible explanation or reason assigned for non-production of the original document which is only a public document and it can always be summoned from the authority concerned or at least a certified copy of the same can be filed.

4. The trial Court after considering the submissions of the learned counsel on either side held that the application seeking to mark the photostat copy of the public document is misconceived and not maintainable and proceeded to dismiss the application.

5. Heard Ms.H.Kavitha, learned counsel for the petitioner and

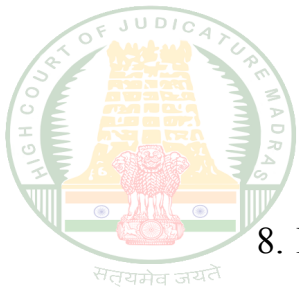


CRP No.1248 of 2025

Ms.Thejashwini, learned counsel for M/s Sarvabhuman Associates, the learned
counsel the respondents.

6. Learned counsel for the petitioner would state that after the dismissal of the application by the trial Court, the petitioner had made an application under the provisions of Right to Information Act on 12.02.2024 and reply has been given by the public information officer on 12.03.2024 stating that the old FMB is not available in the said office. Learned counsel would therefore state that though the document is a public document, when the petitioner is unable to get certified copy, recourse can be had to secondary evidence and photostat copy should be permitted to be received.

7. Learned counsel would also place reliance on the decision of the Hon'ble Supreme Court in *Nawab Singh vs Inderjit Kaur v* reported in (1999) 4 SCC 413 and of this Court in *PVR INOX Ltd vs Sri Thenandal Films* REPORTED IN (2023) ibclaw.in.947 HC. Learned counsel would therefore state an opportunity should be given to the petitioner to produce the photostate copy, the veracity of which can always be tested by the defendants during cross examination.

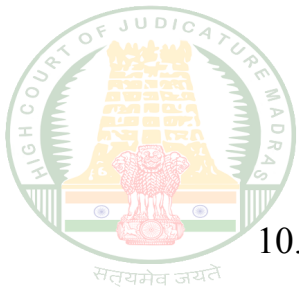


CRP No.1248 of 2025

8. Ms.Thejashwani, learned counsel for the respondents would invite my

attention to the document which is now sought to be introduced by way of secondary evidence, which is available in the typed set of papers and state that the said document on the face of it does not appear to be a true photostat of the FMB available in the revenue records. There has been alterations and additions made to the said document in the sketch and therefore, such a fabricated document cannot be permitted to be received as secondary evidence. She would further point out to the date of the document being 02.08.2007. However, referring to the request made under Right to Information Act, she would state that the document dated 15.12.1988 has been sought for and it is not the document which is available in the typed set of papers viz., the photostat copy of FMB, which is sought to be marked as secondary evidence. Therefore, she submits that the trial court has rightly dismissed the application and the same does not warrant interference.

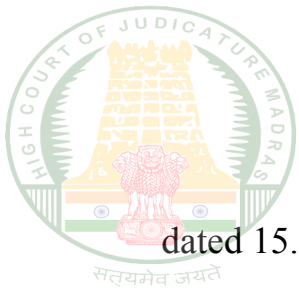
9. I have carefully considered the submissions made by the learned counsel on either side.



CRP No.1248 of 2025

10. No doubt, the document which is sought to be produced by the petitioner/plaintiff is only a revenue record which should normally be available with the Taluk Officials. In and by the application originally filed, only a photostat copy was attempted to be marked stating that the original copy has been lost. The recourse to Rule 75 of Civil Rules of Practice provides for production of records available in the custody of the Public Officer. For invoking such Rule, the party, who seeks to summon the document, will have to first make an application to the authority or Public Officer requesting for a copy and only when it is refused or not available, then, the court shall permit production of records from the custody of a Public Officer as mandated under Rule 75 of Civil Rules of Practice. The said procedure has not been followed by the plaintiff. However, after the trial court dismissed the application, refusing to permit the petitioner/plaintiff to permit him to mark a photostat copy, an application has been made under the provisions of Right to Information Act and a copy of the said FMB has been sought for.

11. As rightly pointed out by the learned counsel for the respondents, the document, which is sought to be produced and also made available in the typed set of papers is the document dated 02.08.2007. The said document is not sought for under the Right to Information Act. What is sought for is the FMB



CRP No.1248 of 2025

dated 15.12.1988. There is no explanation as to the discrepancy in this regard.

WEB COPY

12. Further, I find that the document which is sought to be produced as FMB is certainly not the true copy of FMB which would be available in the revenue records. There are additions made to the said document, by inclusion of names of the parties, names of the road and also inserting a box with key note indicating that the said box portion referring to the asbestos house is belonging to one Sekar and that it forms part of L/5/12. Even the direction marks appear to have been inserted much later and would not be available in the original FMB that would have been furnished by the Revenue Officials. In view of the above, the photostat copy of the said document cannot be permitted to be received in evidence, much less secondary evidence.

13. Coming to the decision relied on by the learned counsel for the petitioner in *Nawab Singh vs Inderjit Kaur v* reported in (1999) 4 SCC 413, it was a case of a rent note, the original of which was alleged to be in the possession of the defendant. The defendant did not produce the said original despite being called upon to do so and under such circumstances, the Court permitted production of secondary evidence. In the case of *PVR INOX Ltd vs Sri Thenandal Films* REPORTED IN (2023) ibclaw.in.947 HC, this Court



CRP No.1248 of 2025

falling back on Section 63(2) of the Indian Evidence Act, 1872, when the copies

made from the original by mechanical process by themselves ensuring accuracy of the copy and comparison of the copies can be made before receiving the same as secondary evidence, permitted documents to be received as secondary evidence. However, in the present case I have already found that the copy which is now sought to be produced on the face of it does not appear to be a true copy of the original FMB, which would be available in the revenue records. There is no scope for comparison since the original FMB is not made available by the petitioner/plaintiff and there is also discrepancy with regard to the date of FMB as sought for by the petitioner/plaintiff under the Right to Information Act, viz., subsequent action that has been taken by the petitioner/plaintiff post dismissal of I.A.No.4 of 2024. I do not find that the petitioner/plaintiff is entitled to mark a photostat copy of FMB as furnished by the petitioner/plaintiff along with I.A.No.4 of 2024.

14. For the foregoing reasons, I do not find any infirmity in the order passed by the learned Subordinate Judge, Karaikal in I.A.No.4 of 2024 in O.S.No.30 of 2021 dated 06.02.2025.

P.B.BALAJI.,J.



CRP No.1248 of 2025

sr

WEB COPY

15. In the result, the civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

01.07.2025

Index: Yes/No

Website:yes/no

Speaking Order/Non-speaking Order

sr

To

The Subordinate Court, Karaikal.

CRP No.1248 of 2025