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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3190 of 2023

& CMP.No.19661 of 2023

1.Ramalingam

2.Jayaprakash

... Petitioners

Vs.

1.Karthikeyan

2.Jayakanthan

3.Pazhaniyammal

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 10.07.2023 made in I.A.No.1 of 2023 in O.S.No.222 of 2016 on the file of the Additional District Munsif Court, Ulundurpet.

For Petitioners : Mr.C.Munusamy

For Respondents : Mr.M.Muruganantham for RR1 & 3
No appearance for R2



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ORDER

This revision has been filed to set aside the order dated 10.07.2023 made in I.A.No.1 of 2023 in O.S.No.222 of 2016 on the file of the Additional District Munsif Court, Ulundurpet.

2.Heard Mr.C.Munusamy, learned counsel for the petitioners and Mr.M.Muruganantham, learned counsel for the respondents 1 and 3.

3.The petitioners have taken out an application to de-mark the exhibits, namely five photographs, which were marked as Exs.B1 to B5. According to the counsel for the petitioners, the procedure contemplated under the Indian Evidence Act has not been followed in allowing the exhibits to be taken on file, as neither the negatives nor the Compact Disc were filed and also necessary Section 65B certificate was also not filed along with the photographs. He would therefore state that the documents have to be de-marked and cannot be allowed to remain as exhibits to the suit.



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4.Per contra, the learned counsel for the respondents 1 and 3 would state that the photographs were marked only after the witness, P.W.1 admitted the said photographs. According to the learned counsel for the respondents 1 and 3, necessary Section 65B certificate as well as the Company Disc has been duly filed before the Trial Court. In any event, he would contend that the issue has already been decided by the Trial Court even at the stage of admitting the documents in evidence and the objection of the revision petitioners was overruled by a speaking order of the Trial Court. He would also invite my attention to the impugned order in the present revision, which also extracts the said order of the Trial Court, permitting the documents to be exhibited as Exs.B1 to B5. He would therefore state that without challenging the said order passed and allowing the documents, namely the photographs to be marked as Exs.B1 to B5, it is not open to the petitioners to file separate application to de-mark the photographs, which have been marked.

5.In this connection, he would place reliance on the decision of the Hon'ble Supreme Court in *Sulthan Said Ibrahim Vs. Prakasan and Others*,



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reported in 2025 SCC Online SC 1218, where the Hon'ble Supreme Court has held that the bar of *res judicata* would apply to not only two different proceedings but also different stages of same proceedings. In the light of the above, the learned counsel for the respondents 1 and 3 contends that the present application itself is not maintainable and seeks for dismissal of the revision.

6.I have carefully considered the submissions advanced by the learned counsel on either side.

7.Firstly, the photographs have been marked only because of the fact that P.W.1 admitted to the said photographs. Insofar as non filing of the Compact Disc and Section 65B certificate, it is the specific contention of the counsel for the respondents 1 and 3 that the same has been filed before the Trial Court already. In the light of the above and moreso, in view of the fact that the earlier order permitting the photographs to be marked, in fact, I find that the Trial Court has already recorded that the the Compact Disc as well as the Section 65B certificates are available insofar as the photographs are concerned.



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8.In the light of the above, having not challenged the earlier order permitting the photographs to be marked as Exs.B1 to B5, it is not open to the petitioners to maintain an independent application seeking de-marking of the photographs.

9.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

13.08.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

The Additional District Munsif Court, Ulundurpet.



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P.B. BALAJI,J.

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