IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 4-10-2016

CORAM

THE HON'BLE DR. JUSTICE T. MATHIVANAN

CIVIL REVISION PETITION No.1758 of 2012

M.Chokkalingam,
S/o Murugaiayan,
Vinayagar Kovil Street,
T.Kumarapuram,
Nathapattu Post,
Cuddalore

..Respondent/ Petitioner/Petitioner

vs

Paramasivam,
S/o. Devanayaga Padaiyatchi,
South Stret,
Vazhisothanipalayam,
Annavalli Madura,
Cuddalore

.. Petitioner/Respondent/Respondent

I Civil Revision petition filed under Article 227 of the Constitution of India, against the order dated 15.11.2011 and made in CTP.No.6 of 2010, on the file of the Revenue Court, Cuddalore, confirming the order, dated 15.4.2010 and made in TR No.7 of 2007, on the file of Tasildhar, Cuddalore.

For Petitioner	: Mr.D.Ravichander,
For Respondent	: No appearance

ORDER

This memorandum of Civil Revision Petition is directed against the order, dated 15.11.2011 and made in C.T.P.No.6 of 2010, on the file of the Revenue Court, Cuddalore, confirming the order, dated 15.4.2010 and made in T.R No.7 of 2007, on the file of Tasildhar, Cuddalore.

2. Heard Mr. T.Ravichander, learned counsel appearing for the revision petitioner. Despite of service of notice, the respondent has not chosen to appear and therefore he was called absent.

3. The revision petitioner herein claims to be the owner of the property, which according to him was purchased by him on 20.8.2007.

4. It is the case of the petitioner that the respondent had created an unregistered lease deed, as if the petitioner's vendor had executed a lease in his favour in respect of the petition-schedule mentioned property. Based on the unregistered lease deed, the respondent had filed a petition in T.R. No.7 of 2007 before the Tenancy Record Officer to register his name in the records as a 'cultivating tenant'. The said petition was opposed by the revision petitioner herein and ultimately, the petition was dismissed on 15.4.2010.

5. Chellenging the above said order, instead of filing an Appeal before the Revenue Court, Cuddalore, the respondent had erroneously filed an Appeal before the Revenue Divisional Officer, Cuddalore.

6. Mr. T.Ravichander, learned counsel appearing for the revision petitioner has contended that when there is a specific provision for the respondent to approach the Revenue Court , Cuddalore by way of filing an Appeal, the Revenue Divisional Officer, Cuddalore, in the instant case did not have jurisdiction to entertain the Appeal so preferred by the respondent. However, without knowing his jurisdiction and power, the Revenue Divisional Officer, Cuddalore had erroneously allowed the Appeal filed by the respondent by his order, dated 5.5.2010. Challenging the correctness of the said order, the petitioner herein had filed a revision

before the District Revenue Officer, Cuddalore and the same was allowed on 31.5.2010.

7. When the revision was pending before the District Revenue Officer,Cuddalore, the petitioner had filed a Memorandum before the Revenue Court, Cuddalore for setting aside the order of the Revenue Divisional Officer, Cuddalore. It was also taken on file and numbered as C.T.P No.6 of 2010 before the Revenue Court. Since the District Revenue Officer, Cuddalore had set aside the order passed by the Revenue Divisional Officer,Cuddalore, the petitioner was advised to withdraw the revision already filed by him in C.T.P No.6 of 2010 on the file of the Revenue Court, Cuddalore and accordingly, he had filed a memorandum on 9.6.2011 to withdraw the petition in C.T.P.No.6 of 2010. But the Revenue Court, Cuddalore had erroneously considered the same, as if the petitioner had filed a petition for eviction of the respondent and therefore, the Revenue Court , Cuddalore had proceeded to dismiss the said petition for default of his non-appearance. The respondent taking advantage of the dismissal of the petition in C.T.P.No.6 of 2010 had been misrepresenting that he had been in possession of the subject property.

8. Mr. T.Ravichander, learned counsel appearing for the revision petitioner has submitted that the Revenue Court, Cuddalore ought to have seen that the petitioner had never filed any petition under the Tamil Nadu City Tenats Protection Act,1921. He has further submitted that without considering the fact that this memo, dated 9.6.2011 was filed by the petitioner, seeking withdrawal of the petition already filed by him, the Revenue Court, Cuddalore had erroneously proceeded to dismiss the said memorandum, considering wrongly, as if the petitioner had filed the petition under the provisions of Tamil Nadu City Tenants Protection Act,1921.

9. This Court has carefully considered the grounds of this civil revision petition as well the submissions made by Mr. T.Ravichander, learned counsel appearing for the revision petitioner.

10. It is apparent that the District Revenue Officer, Cuddalore had

already set aside the order passed by the Revenue Divisional Officer, Cuddalore. Since the District Revenue Officer in his order, dated 31.5.2010 made in Na.ka.G1/16215/2010 had set aside the order of the Revenue Divisional Officer, dated 5.5.2010, Mr. T.Ravichander, learned counsel appearing for the revision petitioner has submitted that the Appeal pending before the Revenue Court, Cuddalore has become in fructuous.

11. Keeping this in view, this civil revision petition is disposed of as the Appeal pending before the Revenue Court has become infructuous. Connected M.P.No.1 of 2012 is closed. However, there will be no order as to costs.

4.10.2016

Index:-yes/mo

Internet:- yes/no

T.MATHIVANAN, J

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&
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