

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)Nos.2310 to 2312 of 2016

K.Pitchai

... Petitioner in all CRPs.

Versus

1. K.Narayanan

2. T.Susila

... Respondents in all CRPs.

Prayer in CRP(PD)No.2310 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.04.2016 made in I.A.No.152 of 2016 in O.S.No.138 of 2014 on the file of the Court of the District Munsif, Mannargudi.

Prayer in CRP(PD)No.2311 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.04.2016 made in I.A.No.153 of 2016 in O.S.No.138 of 2014 on the file of the Court of the District Munsif, Mannargudi.

Prayer in CRP(PD)No.2312 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.04.2016 made in I.A.No.154 of 2016 in O.S.No.138 of 2014 on the file of the Court of the District Munsif, Mannargudi.

For Petitioner in
all CRPs. : Mr.R.Jagadesan
For Respondents
in all CRPs. : Mr.P.B.Balaji

COMMON ORDER

The petitioner filed a suit in O.S.No.138 of 2014 for declaration and injunction against the respondents. The suit was contested by the

respondents, by filing written statement.

2. After the conclusion of trial, the respondents filed three applications in I.A.Nos.152, 153 and 154 of 2016, to reopen the case, to recall D.W.1 for further examination and to receive the documents on the side of the defendants. The applications were allowed by the trial Court, notwithstanding the objection raised by the petitioner. Feeling aggrieved, the petitioner is before this Court.

3. The learned counsel for the petitioner contended that patta of the property still stands in the name of the petitioner. The respondents fabricated the records as if they are in possession of land with the help of the Officers of the Revenue Department. According to the learned counsel, the respondents failed to prove due diligence. The Trial Court was therefore not correct in allowing the applications.

4. The learned counsel for the respondents, while justifying the order passed by the Trial Court, submitted that the question of evidentiary value of the documents could be decided only after marking the documents and as such, the petitioners were not correct in challenging the orders.

5. The suit in O.S.No.138 of 2014 was filed by the petitioner for declaration and injunction. The burden of proof is therefore on the petitioner to prove that he is entitled to a decree on the basis of his title. It is not as if

the respondents have to prove the negative. The Written Statement appears to have been filed in 2014. Nothing prevented the respondents from obtaining these records at the earliest point of time and more particularly, before examination of D.W.1. There is no question of permitting the respondents to reopen their side, examine D.W.1 once again and to receive the documents after the conclusion of trial, unless due diligence is shown.

6. The affidavit filed in support of the interlocutory applications did not contain any justifiable reasons to permit the respondents to produce the documents and to recall D.W.1. The learned Trial Judge appears to be under the notion that the reception of documents after trial is automatic. The learned Trial Judge observed that validity and admissibility of the documents would be decided while marking the documents. The documents cannot be received and witness cannot be re-called after the trial, unless justifiable reasons are shown. Unfortunately no such reasons were shown by the respondents. The trial Judge was therefore not correct in allowing the Interlocutory Applications.

7. In the result, the orders dated 02.04.2016 made in I.A.Nos.152, 153 and 154 of 2016 are set aside. The Applications in I.A.Nos.152, 153, and 154 of 2016 are dismissed. The Civil Revision Petitions are allowed. No costs.

03.11.2016

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K.K.SASIDHARAN, J.

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To

1. The District Munsif Court,
Mettur.

CRP(PD)Nos.2310 to 2312 of 2016

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