



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2016

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (PD) (MD) Nos. 2311 & 2313 of 2016

and

C.M.P. (MD) Nos. 10645 & 10646 of 2016

1. Balkis Beevi

2. R. Sarbudeen

in CRP (MD) No. 2311/2016

.. Revision Petitioners/Defendants 1 & 2

Mohammed Ali

Represented by his power agent

R. Sarbudeen

.. Revision petitioner/Defendant

in CRP (MD) No. 2313/2016

Vs.

K. Pushpanathan

.. Respondent/Plaintiff

in both CRPs.

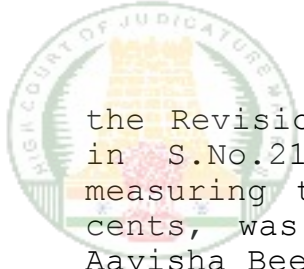
COMMON PRAYER: Petitions filed under Article 227 of Constitution of India, to call for the records pertaining to plaint copy in O.S. Nos. 248 of 2012 and 163 of 2014, on the file of the learned Principal District Munsif, Kumbakonam and struck off the above said plaint in O.S. Nos. 248 of 2012 and 163 of 2014, from the file of the learned Principal District Munsif Court, Kumbakonam respectively.

For Petitioner : Mr. C. Kishore
in both CRPs.

C O M M O N O R D E R

The petitioners have filed these Civil Revision petitions to call for the records pertaining to plaint copy in O.S. Nos. 248 of 2012 and 163 of 2014, on the file of the learned Principal District Munsif, Kumbakonam and struck off the above said plaint in O.S. Nos. 248 of 2012 and 163 of 2014, from the file of the learned Principal District Munsif Court, Kumbakonam.

2. According to the petitioners, the respondent herein filed the suits in O.S. Nos. 248 of 2012 and 163 of 2014 before the Principal District Munsif Court, Kumbakonam, for permanent injunction against



the Revision petitioners. The subject matter of the suit property is in S.No.211/1B2, Maruthuvakudi Village, Thiruvidadaimarudhur Taluk, measuring to an extent of 64 cents, out of total extent 1 acre 72 cents, was initially owned by one Aayisha Beevi Ammal. The said Aayisha Beevi Ammal alienated the suit properties and other properties to Bajariya Beevi and Balkies Beevi, the first petitioner herein, pursuant to two separate sale deeds, dated 31.07.1974 in Document No.2337/1974 and Document No.2338/1974 respectively. Subsequently, the first petitioner herein settled the suit properties to the said Bajariya Beevi pursuant to a registered settlement deed, dated 30.08.1979, vide Document No.1808/1979 and she was the absolute owner for entire extent of 1 acre 72 cents, including the suit property.

3. Further, the first petitioner's son-in-law, namely, Mohammed Ali was the original owner of the suit property and he was working in abroad. Therefore, the petitioners were looking after the suit property. Since the said Mohammed Ali was in abroad, a special power was executed in favour of the petitioners, pursuant to a special power deed, dated 27.03.2014. The respondent also filed another suit in O.S.No.163 of 2014, against the said Mohammed Ali, for permanent injunction in respect of the property S.No.211/1B2, Maruthuvakudi Village, Thiruvidadaimarudhur Taluk, for an extent of 1 acre 08 cents, out of total extent 1 acre 72 cents. The respondent herein, was in no way connected with the suit property and he was working as an "Office Assistant" at Government Higher Secondary School, Thiruvidadaimarudhur. The respondent, who was a third party to the suit property, has come up with a claim that the original owner Mohammed Ali leased out the suit property to him. The respondent herein managed to fabricate the document of the Revenue Department viz., "Record of Tenancy Rights" Register (RTR Register). The said alleged document was a grabbed one and a fabricated one, to show that the respondent herein was a cultivating tenant with regard to the suit property.

4. Further, the respondent herein made a complaint for land grabbing and in the meantime, the petitioners filed a suit as against the respondent as a power agent of the said Mohammed Ali, in O.S.No.162 of 2014 before the Principal District Munsif Court, Kumbakonam. The petitioners also filed an application in I.A.No.143 of 2014 for temporary injunction and the same was allowed. Against which, the respondent preferred an appeal in C.M.A.No.6 of 2015 before the II Additional District and Sessions Court, Thanjavur and the same was dismissed. Against which, a Civil Revision petition was preferred by the respondent in C.R.P.(MD)No.1266 of 2015 before this Court and the same was disposed of without interfering the order of the Court below. In the said order, temporary injunction granted in favour of the petitioners, has become final.

5. Further, based on the complaint made by the petitioners, the Tahsildar, Thiruvidadaimarudhur Taluk, conducted a detailed enquiry after giving opportunity to the respondent and passed an order on 18.03.2015, in his proceedings in Na.Ka.No.3411-2014-A2, and cancelled the wrong entry made in the Record of Tenancy right, register(RTR Register). Hence, the petitioners have filed the present Civil Revision petitions.



6. Heard the arguments of the learned counsel for the petitioners.

7. On a perusal of the order passed by the Tahsildar in his proceedings in Na.Ka.No.3411-2014-A2, dated 18.03.2015, wherein the name of the respondent herein as a cultivating tenant was removed from the RTR register, for the reason that it has been wrongly included in the said register. The Tahsildar also considered the order passed by the Civil Court in I.A.No. 143 of 2014 and the Judgment passed by this Court in C.M.A.No.6 of 2015. Taking into consideration the aforesaid facts and circumstances of the case, it is open to the Revision petitioners to raise all the objections by filing appropriate applications before the Court below which is permissible in law and the same can be adjudicated by the Court below for abuse process of law. The Revision petitioners have also obtained an order of temporary injunction and the same has become final.

8. Hence, without expressing any opinion of the matter, the liberty is granted to the Revision petitioners to approach the Court below by filing appropriate applications. In the event of filing of the said applications, the Court below is directed to dispose of the application on merits in accordance with law within four months from the date of receipt of a copy of this order, without being influenced by the orders passed by this Court.

9. The Civil Revision petitions are disposed of with the above directions. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CrI.Side)

/True Copy/

Sub Assistant Registrar

pmu

To

The Principal District Munsif,
Kumbakonam.

+1CC to Mr.C.Kishore, Advocate Sr.No.69064

GJM/SS2/KSM/23.1.17-3p-3c

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