



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

WEB COPY CRP (MD).No.432 of 2016 and CMP(MD).No.1852 of 2016

1. M. Singaram
2. S. Ramamirtham

:Revision Petitioners/Plaintiffs

Vs.

Gandhi

:Respondent/Defendant

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.11.2015 made in I.A.No.69 of 2015 in O.S.No.10 of 2014 on the file of the learned Principal District Judge, Karur.

For Petitioners : Mr.T. Lajapathi Roy

For Respondent : Mr. Shanmugam

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 05.11.2015 made in I.A.No.69 of 2015 in O.S.No.10 of 2014 on the file of the learned Principal District Judge, Karur.

2. The revision petitioners are the plaintiffs. The respondent is the defendant.

3. The revision petitioners filed a suit in O.S.No.10 of 2014 on the file of the learned Principal District Judge, Karur, for declaration to declare the sale deed as null and void, as the same was executed by the respondent, under threat and coercion and for permanent injunction. The revision petitioners filed an application in I.A.No.69 of 2015 in O.S.No.10 of 2014 for appointment of Advocate Commissioner to assess the value of the granite stones excavated in the suit property.

4. According to the petitioners, even before the sale, the petitioners have excavated the granite stone to an extent of 400 meters in the suit property. The respondent's lands are adjacent to the petitioners lands and he is trying to remove the granite stone from the petitioner's land to his land. He suppressed the fact that there are granite stones in the suit property, purchased the same as though they are the agricultural land. The respondent denied that there is granite stone in petitioner's land and trying to remove the granite stones from the petitioners land to his land. The learned Judge after considering the facts and circumstances, dismissed the Interlocutory Application filed by the petitioners. Against that dismissal, the petitioners have come out with the present revision.

5. The learned counsel for the petitioners contended that the petitioners are having license to quarry and they have also excavated 400 meters of granite stones in the suit property. He further contended that the petitioners have filed an application for appointment of



Advocate Commissioner to note down the physical features of the land and for taking photographs to file along with report.

6. The learned counsel for the respondent submitted that no granite stone was excavated from the petitioner's land and the respondent never tried to remove the granite stones from the petitioners land. It is for the petitioners to prove the execution of the sale deed, by threat only by letting in evidence. Further, the petitioners have not produced any evidence to show that the granite stone was removed from their land, as the same was available even before sale.

7. I have heard the learned counsels appearing on either side and perused the materials available on record.

8. From the materials it is seen that even before sale, the petitioners have excavated stone from the suit property to an extent of 400 meters. The petitioners alleged that suppressing the fact that already there are granite stones in petitioners land, by threat and coercion, the respondent got sale deed and executed in his favour, as though the land is only agricultural land, the petitioners have not produced the document to show that they are having license for quarrying the granite stones. The learned Judge has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned Judge has exercised his power conferred on him in properly and there is no irregularity or illegality warranting interference by this Court.

9. In the result, the Civil revision petition is dismissed confirming the impugned order dated 05.11.2015 made in I.A.No.69 of 2015 in O.S.No.10 of 2004 on the file of the learned Principal District Judge, Karur. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS)

To
The Principal District Judge, Karur.

+1cc to M/s.T.Lajapathi Roy, Advocate in SR.10589

+1cc to M/s.R.Shanmugam, Advocate in SR.10464

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CMP (MD) .No.1852 of 2016
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