BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(MD).No.548 of 2016(PD)
and
C.M.P.(MD).No.2369 of 2016

R.Manoharan ... Petitioner

Vs.

1.R.Mohanraj
2.R.Prabhakaran
3.R.Prabu
4.R.Parthiban
5.R.Vijayan ... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.12.2015 passed in I.A.No.240 of 2015 in O.S.No.297 of 2011 on the file of the District Munsif Court, Palani.

For Petitioner : Mr.M.P.Senthil

ORDER

The petitioner filed a suit for declaration and injunction. The respondents filed written statement stating that no specific entries and survey numbers are given and no cause of action arisen in the suit.

2.The petitioner filed I.A.No.240 of 2015 for amendment of plaint for including the relief to correct the entries in the 'A' register, chitta and the revenue records.

3.The respondents resisted the same stating that the Court has no jurisdiction to correct the entries in the revenue records and only the Revenue Authorities has power to correct the revenue records.

4.The learned Judge considered all the materials on record, dismissed the application. Against which, the present Civil Revision Petition is filed.

5.The learned counsel for the petitioner contended that the learned Judge has failed to consider that no new cause of action has been introduced and amendment dose not change the nature of the suit. The learned counsel further submitted that as per Section 46 of the Tamil Nadu Court Fees and Suits Valuation Act, the Court has power to entertain and grant relief. The relief sought for is only consequential relief. The learned District Munsif, Palani exceeded his power by holding that Section 46 of the Tamil Nadu Court fees and Suits Valuation Act, is no longer in force. Unless, the said section statutorily amended and the same can be invoked by a party.

6.I have heard Mr.M.P.Senthil, learned counsel appearing for the petitioner and carefully perused the entire materials on record.

7.According to the petitioner, the suit property originally belonged to his father and after his death, in partition, the same was allotted to the petitioner. He sold 10 cents and he is in possession and enjoyment of balance 49 ½ cents. When he made an arrangements for sub-division of property, the respondent objected to the same and hence, he filed a suit for declaration and injunction. Subsequently, he came to know that the wrong entries in the revenue records with regard to the sub-division was made. Therefore, he sought for amendment to include the consequential relief to include in the prayer. According to the petitioner, as per Section 46 of the Tamil Nadu Court Fees and Suits Valuation Act, the petitioner is entitled to get relief as sought for.

8.Section 46 of the Tamil Nadu Court Fees and Suits Valuation Act, reads as follows:

> *"46.Suits to alter or cancel entry in a register.- In a suit to alter or cancel any entry in a register of the names of proprietors of revenue-paying estate, the fee payable shall be fifteen rupees".*

9.A reading of the said section reveals that the suit to alter or cancel any entry in a register of the names of the proprietors of revenue-paying estate, the fee payable shall be fifteen rupees.

10.In the present case, the petitioner is seeking for an amendment to include the prayer to permit him to delete the sub-division made in the revenue records with regard to the suit property. In the circumstances, the learned Judge considered all the materials on record and dismissed the application filed by the petitioner. There is no infirmity or illegality in the order passed by the learned District Munsif, Palani, warranting interference by this Court and accordingly, the civil revision petition is dismissed. No costs. Consequently, the connected C.M.P is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The District Munsif, Palani.

+ 1 CC TO MR.M.P.SETHIL, ADVOCATE IN SR NO. 13591

NS
TE/SKS-RR/ : 23/03/2016 : 2P/3C

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