

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION Nos.4111 & 4246 of 2015

COMMON ORDER:

The unsuccessful petitioner/plaintiff filed these revisions under Article 227 of the Constitution of India challenging the orders dated 17th July, 2015 of the learned Senior Civil Judge, Parvathipuram, passed in I.A.Nos.106 and 105 of 2014 filed respectively for reopening the suit and according permission to summon the Tahsildar, Kothavalasa, to appear before the Court with documents, namely, (i) FCO Adangal, (ii) 10-1 Adangal, (iii) FMB Sketch and (iv) Settlement Adangal relating to plaint schedule properties and give evidence with reference to the said documents.

I have heard the submissions of the learned counsel for revision petitioner/plaintiff (hereinafter referred to as 'plaintiff'). Though notices are served in both the revisions, none appeared for the respondents.

I have perused the material record.

The plaintiff brought the suit against the defendants for declaration and recovery of possession of plaint schedule property and the defendants are resisting the suit. After the trial is concluded, the plaintiff filed the subject applications, *inter alia*, stating that in an earlier suit in O.S.No.102 of 1995 on the file of District Munsif, S.Kota, which was later transferred to the Court of Junior Civil Judge, Kothavalasa, and re-numbered as O.S.No.278 of 1996 and which was dismissed on 07.10.1999, the plaintiff filed five documents as Exhibits A-1 to A-5, and that on the said suit proceedings attaining finality, the plaintiff herein did not take return of the said documents and that when an application was filed for grant of certified

copies of said documents, the plaintiff was informed that the said documents were destroyed and that the request later made to the revenue authorities to issue certified copies was refused, and that therefore, the necessity to file the subject applications had arisen. The defendants resisted the applications by filing counters stating that sufficient evidence is already brought on record and there are no specific grounds urged and made out to grant the requests of the plaintiff.

On merits and by the orders impugned in these two revisions, the trial Court having adverted to the provision of Rule 129(3) of the Civil Rules of Practice, dismissed the petitions of the plaintiff holding *inter alia* that no Court shall permit summoning of a witness with original (public) record unless the party seeking such a relief satisfies the Court that certified copies of public records could not be obtained despite sincere efforts. Therefore, the plaintiff is before this Court.

At the hearing, the learned counsel for the plaintiff/petitioner would submit that the plaintiff/petitioner had already obtained the certified copies of the aforesaid documents, and therefore, appropriate orders may be passed and the revisions may be disposed of.

Recording the submissions, both the revisions are dismissed, however, giving liberty to the plaintiff to file fresh applications (1) to reopen the evidence, (2) to receive on file the certified copies of the public documents, which are said to have been obtained by the plaintiff, viz., (i) FCO Adangal, (ii) 10-1 Adangal, (iii) FMB Sketch, and (iv) Settlement Adangal relating to plaint schedule properties and any other relevant documents, and (3) to recall PW-1 for further examination or to examine any other competent witness for

marking and proving the said documents. Needless to state that if such applications come to be filed, the trial Court shall give an opportunity to the defendants to file counters, if any, and dispose of the said applications in strict accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

M.SEETHARAMA MURTI, J

26th October 2016

ajr

