

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1429 of 2017
& C.M.P.No.6661 of 2017

R.Janaki

.. Petitioner

Vs.

1.P.Natarajan
2.G.Ramakrishnan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 24.01.2017 in I.A.No.40 of 2015 in R.C.O.P. No.5 of 2014 on the file of the learned District Munsif, Pollachi.

For Petitioner : Mr.C.Veeraraghavan

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 24.01.2017 in I.A.No.40 of 2015 in R.C.O.P. No.5 of 2014 on the file of the learned District Munsif, Pollachi.

2.The petitioner is the second respondent and the first respondent is the petitioner in R.C.O.P. No.5 of 2014. The first respondent filed above R.C.O.P. for eviction on the ground of wilful default and denial of title. In the cause title of the R.C.O.P., the addresses of the petitioner are given as follows:

“R.Janaki, wife of G.Ramakrishnan, residing at 43/45, first floor, Nehru Colony, Mahalingapuram, Pollachi, as per the version made by the first respondent she is the second wife of said late K.S.Arumugam, aged about 46 years and she is residing with first respondent at No.49A, Ansari Street, Rajakkabad Extension, Udumalpet.”

3. The petitioner has filed counter affidavit and is contesting the said R.C.O.P. The first respondent filed I.A.No.40 of 2015 to amend the original petition as per the details of amendment mentioned in the accompanying petition. According to the first respondent, he mentioned the above statement mistakenly, when it was copied from other petition. He further stated that those averments are not related to the petitioner and he has also not made such a statement in his original petition except in the cause

title. The petitioner filed counter affidavit and opposed the same stating that the respondents are colluding together filed R.C.O.P. for eviction. There is no landlord-tenant relationship between the petitioner and the first respondent. The petitioner and her children are co-owners of the petition property. The first respondent is denying that she is owner of the suit property and she is residing in that property. The petitioner is taking steps to take action against the first respondent for making defamatory statement in the original petition. To get over such action only, the first respondent has come out with the present application.

4. Before the learned Judge, the petitioner was examined as R.W.1 and marked one document as Ex.R1. The first respondent did not let in oral and documentary evidence. The learned Judge considering the affidavit, counter affidavit and the materials available on record, allowed the application holding that if really, the petitioner is serious about taking action against the first respondent for defamatory statement, she could have taken such action at the time of filing vakalath through her Advocate in R.C.O.P.No.5 of 2014. Aggrieved over the said order, the civil revision petition is filed by the petitioner.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The contention of the learned counsel appearing for the petitioner is that in order to escape from the action taken against the first respondent for the defamatory statement, he has come out with the present application to delete the statement made by him. The learned Judge without properly appreciating the fact, allowed the application. In my view, the above said contention is untenable. The first respondent has filed R.C.O.P. in the year 2014 for eviction of the petitioner and second respondent on the ground of willful default and denial of title. The petitioner has denied the landlord-tenant relationship between the first respondent and the petitioner. She has also stated that R.C.O.P.No.5 of 2014 has been filed at the instigation of the second respondent.

7. According to the first respondent, the statement was added mistakenly, when it was copied from the other petition and it was not related to the petitioner. In the statement of the first respondent, it is stated that the petitioner is the second wife of

late.K.S.Arumugam, the address is given by mistakenly and copied from another legal proceedings and the same is made by inadvertently. The said contention has considerable force. The learned trial Judge has given valid and cogent reasons while allowing the application. Therefore, there is no illegality or irregularity in the order passed by the trial Court warranting interference by this Court.

8. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.04.2017

Index : Yes

dm/kj

To

The District Munsif
Pollachi.

V.M.VELUMANI, J.

dm/kj

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