

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

CRP (PD) No.1525 of 2017

1.Umapathy
2.Krishnan
3.Duraisamy
4.Ganapathi
5.Munusamy
6.Mangalalakshmi
7.Vijayakumar
8.Ganesan
9.Ramu

.. Petitioners

Vs

Murugan

.. Respondent

Prayer:- Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decretal order dated 15.11.2016 passed in I.A.No.1020 of 2016 in O.S.No.548 of 2005 on the file of the Additional District Munsif Court, Vellore, Vellore District and allow the Civil Revision Petition.

For Petitioners : Mr.S.Arunkumar

ORDER

The petitioners have filed this petition praying to set aside the fair and decretal order dated 15.11.2016 passed in I.A.No.1020 of 2016 in O.S.No.548 of 2005 on the file of the Additional District Munsif Court, Vellore, Vellore District.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent/plaintiff filed a suit in O.S.No.548 of 2005 for declaration of title and to direct the defendants to deliver the possession of 'A' and 'B' schedule properties to him and other reliefs. The first petitioner/first defendant filed written statement on 03.09.1986 and is contesting the suit. The trial commenced and the respondent/plaintiff let in evidence as P.W.1 and he was cross-examined and his side evidence was closed. Thereafter, the petitioners/defendants examined five witnesses. D.W.5 is the Head Quarters Tahsildar and through him, several documents were marked by the petitioners/defendants. The petitioners have filed 2 applications viz., I.A.No.1020 of 2016 and I.A.No.1021 of 2016. The application in I.A.No.1020 of 2016 was filed to re-open the evidence on plaintiff side, and the other application in I.A.No.1021 of 2016 was filed to recall the plaintiff for further cross-examination of P.W.1, on the ground that from the documents marked through D.W.5, the Tahsildar, certain ambiguities were found and therefore, it is necessary to reopen the case.

3. The respondent/plaintiff filed counter and opposed the said applications and stated that the documents marked through D.W.5 are the Revenue records and those documents were in

existence even at the time of filing the suit, and the petitioners/defendants had knowledge of the said documents at the time of filing the suit itself. Hence, he prayed for dismissal of the said applications.

4. The learned Judge on perusing the materials available on record and considering the fact that admittedly P.W.1 was examined on 03.02.2006, and after several adjournments, P.W.1 was cross-examined completely on 05.12.2006 i.e., after a span of ten months. Now, the petitioners have filed the said applications for a direction to reopen the evidence on plaintiff side, and to recall the plaintiff for further cross-examination. The learned Judge has held that in the present case, P.W.1 was examined a decade before and the evidence of P.W.1 was also closed as early as in the year 2006, and that there was no specific averments made by the petitioners/defendants with regard to the ambiguity in the documents and Revenue records, which P.W.1 has no nexus. Even the petitioners/defendants have examined five witnesses on their side and now, the case is proceeding towards finality and at this stage, filing applications to reopen the case and to recall P.W.1 for further examination, has no merit. Hence, the said applications are liable to be dismissed and accordingly the learned Judge has dismissed both the applications in I.A.No.1020/2016 and 1021 of

2016. Against the dismissal order passed in I.A.No.1020 of 2016, filed to reopen the plaintiff's side evidence, the petitioners have filed the present Civil Revision Petition.

5. Heard the learned counsel appearing for the petitioners and perused the materials placed before this Court.

6. It is seen from the records that D.W.5, the Tahsildar had produced certain Revenue records and the same had been marked on the side of the petitioners/defendants. The petitioners/defendants have sought for a direction to re-open the evidence of P.W.1 on the ground that certain ambiguities are found in the documents produced by D.W.5, Tahsildar and therefore, it is necessary to re-open the case of the plaintiff. But the respondent/plaintiff has contended that those documents are Revenue records and they were available even at the time of filing of the suit and the petitioners/defendants have not given any reason for not producing the same at the earlier stage. The learned Judge has rightly pointed out that the petitioners/defendants have not stated as to what are the ambiguities found in the Revenue records, for which, the evidence on the plaintiff's side has to be reopened. It is not the case of the petitioners that the documents marked through D.W.5, Tahsildar are of recent origin, which the

petitioners/defendants came to know only when D.W.5 was examined. Considering all these facts, the learned Additional District Munsif, Vellore has dismissed the applications in I.A.Nos.1020 of 2016 and 1021 of 2016, by giving cogent and valid reasons. There is no irregularity or illegality in the order passed by the learned Judge warranting interference by this Court.

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

25.04.2017

ds

Speaking order/Non-speaking order
Index : Yes / No

To:
The District Munsif Court,
Vellore.

V.M.VELUMANI,J

ds

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