

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1555 of 2017
& C.M.P.No.7214 of 2017

S.Gopal Pillai

.. Petitioner

Vs.

1.S.Vadivelu Pillai

2.Dr.Louis Prakasam Kannaiya

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.02.2017 made in I.A.No.1841 of 2016 in O.S.No.383 of 2006 on the file of the learned Principal District Munsif, Puducherry.

For Petitioner : Mr.A.P.Neelamegavannan

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 04.02.2017 made in I.A.No.1841 of 2016 in O.S.No.383 of 2006 on the file of the learned Principal District Munsif, Puducherry.

2. The petitioner is the second defendant, first respondent is the first defendant and second respondent is the plaintiff in O.S.No.383 of 2006. The second respondent filed the suit against the petitioner and first respondent for a direction to the petitioner and first respondent to vacate and hand over the vacant possession of the suit house property to the 2nd respondent and recovery of possession. In the said suit, the petitioner has filed written statement on 15.12.2004 and is contesting the suit. The trial commenced, the second respondent examined his witness and marked documents. The evidence on behalf of the second respondent was closed. The suit was posted for evidence on behalf of the petitioner and first respondent.

3. At that stage, the petitioner and first respondent have filed I.A.No.1841 of 2016 under Order XVI Rule 6 of C.P.C. to issue summons to the Sub-Collector, Villiyanur to produce and give evidence on HRCOP No.1/2006 along with the documents and also issue summons to the Chief Officer/Thasildar, Revenue Department and Disaster at Pondicherry, to produce and give evidence on the petition received in S.No.009556 dated 05.09.2013.

4. According to the petitioner, the petitioner and the first respondent are living with their family in the suit property from the year 1968 onwards and are doing agricultural work in the suit property. Therefore, he applied to the Sub-Collector, Villiyanur, to declare him as the owner of the property as per the Pondicherry Occupants of Kudiyirupu (Conferment of Ownership) Act of 1973 (hereinafter called as 'the Act 1973'). The said petition was taken on file as HRCOP No.1/2006 and subsequently, it was returned on 05.09.2013. The petitioner again re-submitted the petition to the Revenue Department and so far, no order has been passed. It is further stated that in this circumstance, the Civil Court has no jurisdiction to decide the issue in the suit filed by the second respondent as per Section 25 of the Act 1973 and the records in HRCOP.No.1 of 2006 are necessary. Therefore, he has come out with the said petition.

5. The second respondent filed counter and opposed the said petition and submitted that D.W.1 in his cross examination itself admitted that the property was not leased out and therefore, the said Act is not applicable to the petitioner. The petitioner and the

first respondent are neither tenants nor carrying on agricultural activities in the suit property.

6. The learned Judge considering the averments mentioned in the affidavit, counter affidavit and materials available on records, dismissed the application holding that the petitioner has not raised any such plea in the written statement and also not stated that he is occupying the suit property as a tenant, he is ready to deposit the rent from June 2004 and to purchase the suit property for the present market value. The learned Judge further held that the petitioner had not stated that as to why he had not obtained certified copy of the document supposed to be sent for from the Revenue Department.

7. Against the order of dismissal dated 04.02.2017 made in I.A.No.1841 of 2016, this present civil revision petition is filed by the petitioner/second defendant.

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

9. The second respondent filed the suit for eviction and other consequential reliefs. The petitioner filed written statement on 15.12.2004 and from that date onwards, the suit is pending. In the written statement, the petitioner has not taken a stand that the petitioner is the tenant and carrying on agricultural activities in the suit property and that he is entitled to purchase the property as per the Act 1973. The petitioner has not applied for certified copy of the document. Even according to the petitioner, the petition submitted by the petitioner was returned by the Revenue Department on 05.09.2013. It is pertinent to note that the petitioner has not produced any document to show that he is an agriculturist and is entitled to purchase the property. Further the petitioner had not stated that as to why he had not obtained certified copy of the document supposed to be sent for from the Revenue Department.

10. In view of the above facts and circumstances of the case, the learned Judge rightly dismissed the application by giving cogent and valid reasons. Therefore, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 04.02.2017.

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

28.04.2017

Index : Yes

dm/kj

To

The Principal District Munsif,
Puducherry.

V.M.VELUMANI, J.

dm/kj

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