

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (NPD) No.1205 of 2004
& C.M.P.No.9553 of 2004

A.K.Kolanthappachetty ... Petitioner

Vs.

Dharmaraja Koil Sami by

1.Munusamy

2.Krishnappa Gounder

3.Chinnappa Gounder

4. Periyaswami

5.Chippay Mariappan

6.Chinna Thai Gounder

7. Munusami

8.Chennaraya Gounder

9.Periannan

10.Koltara Munisami Gounder

11.Karatha Gounder

12.Kartha Gounder

13.Munia Gounder

14.Veerappan

15.Thimmaraya Gounder

16. Venkataraman

17.Perumal

18.Govinda Gounder

19.Veerasami

20.Chennappan

21.Chinnappan

22. Arjunappan

23.Govindarajulu

24.Chennappan

25.Krishnasami

26.Kullappan

27.Konappa Gounder

28.Thirupathi ... Respondents

PRAYER : Civil Revision Petition filed under Article 115 of the Civil Procedure Code against the order and decreetal order dated 24.12.1993 of the District Munsif Court, Krishnagiri in E.A.No.13/1983 in O.S. No. 193 of 1941 dated 24.12.1993.

For Petitioner : Mr.V.Raghavachari

For Respondents: Not ready in notice reg. R1
R9, R13 to R18, 22, 24 to 26

R2 to R8, 10 to 12, 19 to 21
27 and 28 - died.

No appearance for R23

WEB COPY
O R D E R

This Civil Revision Petition has been filed against the order and decreetal order dated 24.12.1993 of the District Munsif Court, Krishnagiri passed in E.A.No.13 / 1983 in O.S.No.193 of 1941.

2. The petitioner filed E.P.No.13 of 1983 against the respondents to punish them for deliberately violating the decree of permanent injunction dated 02.05.1942 granted in O.S.No.193 of 1941. According to the

petitioner, he obtained decree restraining the respondents from interfering with his peaceful possession and enjoyment of the petition property. On 21.12.1982, in deliberate violation of permanent injunction, the respondents alongwith Surveyor Duraisamy, without giving any notice, trespassed into the land and measured the same and laid boundary stones. In the circumstances, the petitioner preferred E.P.No.13 of 1983 for punishing the respondents for contempt of court.

3. The respondents filed counter and denied the averments and submitted that the property mentioned in O.S.No.193 of 1941 is not the property which the respondents measured and laid boundary stones. The decree is obtained by the petitioner for Survey No.759/1 whereas the property measured by the respondents is with respect to Survey No.760 of Boganapalli village. The learned Judge, considering the materials on record and evidence let in by the parties, dismissed the E.P. holding that the petitioner did not have any right over the property measured by the respondents and respondents have not violated the decree passed in O.S.No.193 of 1941. The petitioner has not filed the decree for permanent injunction obtained by him based on which he claims contempt of court against the respondents.

4. Against the order of dismissal dated 24.12.1993 made in E.P.No.13 of 1993 in O.S.No.193 of 1941, the present Civil Revision has been filed.

5. Heard the learned counsel appearing for the petitioner. Not ready in notice regarding R1, R9, R13 to R18, 22, 24 to 26 and steps due to bring on record the legal heirs of the deceased R2 to R8, 10 to 12, 19 to 21, 27 and 28.

6. The petitioner is seeking to punish the respondents for deliberately violating the decree of permanent injunction dated 02.05.1942 granted in O.S.No.193 of 1941. The petitioner has not filed the said decree in the E.P. The petitioner filed Ex.A3 based on which he is claiming title over the description property. The learned Judge, considering the sale deed, held that the petitioner has not purchased the disputed land by Ex.A3. The petitioner has admitted in the evidence that the disputed land is a Government Poromboke land and that he has no right over the said property and it is in possession of Temple and he has right over the

well for the purpose of drawing water. Further, from the documents produced by the parties, the learned Judge has held that the property which is the subject matter of O.S.No.193 of 1941 is different from the disputed property in Survey No.760. In view of the above facts, the respondents have not violated the decree.

7. In the above circumstances, I do not find any illegality or irregularity in the order dated 24.12.1993 passed in E.A.No.13 / 1983 in O.S.No.193 of 1941 dated 24.12.1993 warranting interference by this Court.

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

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rg

To

The District Munsif Court,
Krishnagiri.

+1cc to Mr.V.Raghavachari, Advocate sr.50818

Copy to:

The Section Officer, VR Section,
High Court, Madras.

सत्यमेव जयते

C.R.P. (NPD) No.1205 of 2004

sv(co)

ss(10/8/2017)

WEB COPY