

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.01.2017

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.4013 of 2016
and
C.M.P.No.20266 of 2016

V.Durairaj

... Petitioner

vs.

1. The District Collector
Office of the Collectorate
Villupuram District.
2. The Block Development Officer
Office of the Thiyagadurugam Union
Panchayat, Thiyagadurugam
Kallakurichi Taluk.
3. The Deputy Block Development Officer
Office of the Thiyagadurgam Union
Panchayat, Thiyagadurgam.
4. G.S.Liyakath
5. K.Velayudham
Respondents 1 to 5 are set exparte
in O.S.No.167 of 2013 dated 04.07.2013
hence given up.

6. Abu Backer

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.09.2015 passed by the learned III Additional District Munsif Judge, Kallakurichi in I.A.No.1772 of 2015 in O.S.No.167 of 2013.

For Petitioner : Mr.T.Dhanasekaran

ORDER

The plaintiff is the revision petitioner. Being aggrieved by the order passed by the Court below in dismissing the application filed by him under Order 13 Rule 10 of the Code of Civil Procedure for receiving the documents filed, as additional evidence, the present revision is preferred.

2. Heard the learned counsel for the petitioner.

3. The case of the revision petitioner is that, he has filed the suit in O.S.No.167 of 2013 seeking cancellation of the fourth respondent's resolution, to declare the collection of tax by the fifth respondent from the sixth respondent, as null and void and for a mandatory injunction. The revision petitioner also filed an interlocutory application in I.A.No.1772 of 2015 for production of certain documents, which is in the custody of the Prithivimangalam Village Panchayat, to be shown as a primary evidence in the suit. However, the court below without considering the case of the revision petitioner has dismissed the said application. Hence the revision.

4. The grievance of the revision petitioner is that the respondents 1 to 5 in connivance with the sixth respondent has committed certain fraud and in order to prove the same, he requires certain original documents, which are available in the Prithivimangalam Panchayat and in the event of non-production of the said documents, he will be put to great prejudice. However, before the Court below the sixth respondent has filed a counter stating that the revision petitioner could very well file xerox copies of the documents sought for by him and that only to drag on the proceedings, he has filed such an application. In view of the same, the court below without hearing the case of the revision petitioner has dismissed the application, warranting interference by this Court.

5. Perused the records.

6. The suit is filed for cancellation of the resolution passed by the fourth defendant dated 31.01.2005 and to declare the collection of property tax by fifth defendant from sixth defendant is null and void. Therefore, the revision petitioner seeks to call for the said two documents from the Prithivimangalam Village Panchayat. The said application was dismissed by the court below by holding that the

same need not be summoned, if production of certified copy of the same is possible. However, such liberty is not granted. Considering the fact that the suit itself is based on the said documents, liberty is given to the revision petitioner to apply for copy of the said two documents from the Prithivimangalam Village Panchayat.

7. In the result, the order dated 10.09.2015 passed by the learned III Additional District Munsif Judge, Kallakurichi in I.A.No.1772 of 2015 in O.S.No.167 of 2013 is set aside and this Civil Revision Petition is disposed of with the above observation. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.01.2017

vj2

Index: Yes/No
Internet: yes

To

The III Additional District Munsif Judge, Kallakurichi

PUSHPA SATHYANARAYANA.J

vj2

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