



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP (PD) (MD) No.1150 of 2017
and
CMP (MD) No.5258 of 2017

R.Anthoniraj

... Petitioner

vs.

1) J.Rethinasagayaraj
2) J.Sandhana Arockiyaraj
3) Pushpam
4) J.Santhanamary
5) J.Alponsmary
6) J.Santhanaselvam
7) J.Samthana Villiam
8) R.Savariyammal
9) P.Rejinamary
10) R.Sophia
11) Diocese of Thanjavur Rep. by its Secretary,
Pishap House, Trichy Road,
Thanjavur Town & Munsif & District.
12) U.Anthony

... Respondents

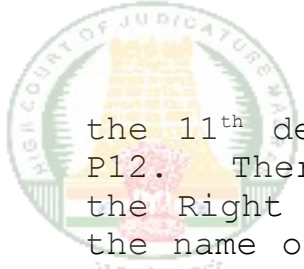
Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 28.03.2017 made in I.A.No.100 of 2017 in O.S.No.267 of 2010 on the file of Additional Subordinate Judge Court, Thanjavur.

For Petitioner : Mr.T.Lajapathi Roy
For Respondent No.11 : Ms.Maria Roseline

ORDER

The revision petitioner herein is the 9th defendant in the suit. The suit is for partition. The parties have entered appearance, filed their statement, examined respective witnesses on their behalf and the matter is now posted for arguments. At this stage, the revision petitioner has taken out an application to re-open the case for the purpose of examining additional witnesses.

2. According to the revision petitioner, when witness was examined on behalf of the defendants, it has been deposed by the witness that the suit property has been transferred in the name of



the 11th defendant and patta transfer order is marked as Exhibit P12. Thereafter, the petitioner has gathered information under the Right to Information Act, how mutation of revenue record in the name of 11th defendant was effected, in which, he came to know about the fraud committed by the parties in effecting mutation of record. Hence, he seeks to examine the Commissioner of Thanjavur Municipality and the Tahsildar who has issued patta transfer order.

3.The 11th defendant contesting party has filed his counter, stating that the alleged documents were in possession of the revision petitioner long back, but he has not chosen to file those documents following appropriate procedure, but filed the present application belatedly when the matter was posted for arguments. He colluded with the plaintiffs and defendants 1 to 10 and 12 and filed the present application only with an intention to drag on the proceedings. Since the witnesses sought to be examined are not relevant witnesses and the alleged revenue record regarding patta transfer is not germane to the suit for partition, the petition is liable to be dismissed.

4.The Trial Court after considering the submissions made on either side has dismissed the application on the ground that examination of the officials who have transferred patta in favour of the 11th defendant is no way helpful to decide the case when the very title to the suit property is in dispute. Therefore, the petition to examine the officials is clearly an abuse of process of law. Hence, it could not be entertained.

5.The counsel for the revision petitioner submitted that under the Right to Information Act, he has come to know that the revenue officials have transferred the patta based on the documents executed by Santhanasamy on 27.11.1987 in favour of the President, Diocese Thanjavur Society.

6.Perusal of the written statement filed by the 11th defendant shows that it is the case of the 11th defendant that the said Santhanasamy has become the Priest attached to the 11th defendant Diocese and he has dedicated the property to the Diocese under his own writing and signature.

7.In the course of arguments, the counsels appearing for the parties submitted that the said letter of Santhanasamy has been marked as Exhibit B9. The document under which the 11th defendant claims title over the suit property is already available before the Court and the alleged patta transfer proceedings is only an incidental administrative action which has no bearing in the suit for deciding the title. This Court is of the opinion that examining the revenue officials involved in the patta transfer is an unwanted exercise. The Trial Court can decide about the title



based on the records already available before it. There is no necessity to re-open the case at this juncture when the matter is posted for arguments.

8.Hence, the Civil Revision Petition is dismissed. This Court has no doubt that the Trial Court without being carried away by the dismissal of this revision petition, will properly appreciate the evidence placed before it and decide the title of the disputed property more particularly, on proper appreciation of Exhibit B9. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To:

The Additional Subordinate Judge,
Thanjavur.

NBI

PSM/KKR/SAR3/03.07.2017/3P/2C

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