



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.148 of 2017 (PD)

and

C.M.P(MD)No.536 of 2017

S.M.Michael

.. Revision Petitioner/ Petitioner/
Plaintiff

Vs.

- 1.Tamil Nadu Government Through its
District Collector,
Sivagangai.
- 2.The Commissioner of Land Administration,
Cheppakkam,
Chennai.
- 3.The Divisional Forest Officer,
Social Forest Division,
Sivagangai.
- 4.The Forest Range Officer,
Social Forest Range,
Manamadurai.

..Respondents/ Respondents/Defendants

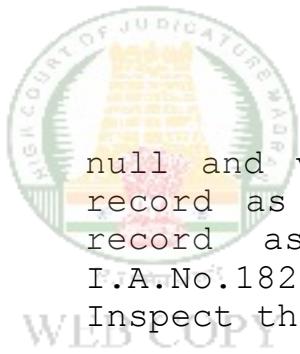
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow this Civil Revision Petition by setting aside the fair order and decreetal order passed by the Principal District Munsif, Manamadurai in I.A.No.182 of 2016 in O.S.No.61 of 2016, dated 06.10.2016.

For Petitioner : Mr.P.Senthur Pandian

ORDER

The petitioner has filed this Civil Revision Petition to set aside fair order and decreetal order passed by the Principal District Munsif , Manamadurai in I.A.No.182 of 2016 in O.S.No.61 of 2016, dated 06.10.2016.

2.The petitioner is the plaintiff. The respondents are the defendants. The petitioner filed suit in O.S.No.61 of 2016 before the Principal District Munsif Court, Manamadurai for declaration <https://hcmjcservices.com/judicialservices/> that suit property exclusively belong to the petitioner and for injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit property and not to cut the trees and to declare the cutting order No.35 of 2016 issued by the fourth respondent, dated 04.02.2016 is



null and void, to cancel the wrong entries made in the revenue record as Government Poramboke Chinnakarisalkulam Kanmai and to record as Riotwary Punja Land. The petitioner also filed I.A.No.182 of 2016 for appointment of Advocate Commissioner to Inspect the suit property and file a report.

3. According to the petitioner, he is in possession and enjoyment of the property in Survey No.50/3. The Survey No.50 was sub divided as 50/1 and 50/2 and patta was issued to the respective persons. The property in Survey No.50/3 is Riotwary Nanja land belonged to the petitioner. Earlier, the property was in possession of his ancestral and the petitioner has perfected his title by adverse possession. The petitioner has lease deed to prove his title. The respondents 1 to 3 wrongly classified the Survey No.50/3 as Government Poramboke Chinnakarisalkulam Kanmai. In view of wrong classification, the fourth respondent issued cutting order No.35/2016 for the trees in S.No.50/1 and 50/3, dated 04.02.2016. The respondents filed counter and denied the averments made by the petitioner.

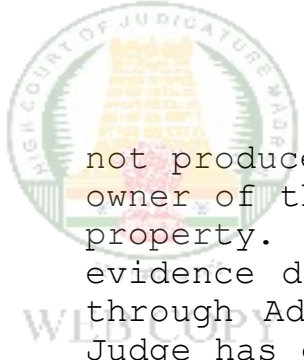
4. The learned Judge considering the materials on record, dismissed the application holding that the petitioner has not filed any document to prove his claim that he is the owner of the property and he is not entitled to application for appointment of Advocate Commissioner for the larger extent of 63.59 acres of Kanmai as well as 7.5 acres of suit property.

5. Against the said order of dismissal, the petitioner has filed the present Civil Revision petition.

6. The learned counsel for the petitioner submitted that the learned Judge erred in dismissing the application for appointment of Advocate Commissioner on the ground that the petitioner has not filed any document to prove his claim and the petitioner is not entitled to appointment of Advocate Commissioner. The learned Judge failed to see that the property in survey No.50/3 is Nanja land and it is not Government Poramboke Chinnakarisalkulam Kanmai. The learned Judge ought to have seen that the fourth respondent, due to wrong classification and wrong entry by respondents 1 to 3 in the revenue records, has issued cutting order for the Trees in the petitioner's property in survey No.50/3.

7. I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

8. The petitioner filed suit for declaration to declare that the suit property exclusively belong to the petitioner and for injunction claiming to be in possession and enjoyment of the property in Survey No.50/3. According to the petitioner, due to wrong classification of the land as Government Poramboke Chinnakarisalkulam Kanmai instead of Nanja land, the fourth respondent issued cutting order of trees in the petitioner property. From the materials it is seen that the petitioner has



not produced any document to substantiate his claim that he is the owner of the property and he is in possession and enjoyment of the property. The petitioner has to prove by letting in acceptable evidence during trial. The petitioner cannot collect the evidence through Advocate Commissioner. In the circumstances, the learned Judge has exercised his jurisdiction conferred on him and there is no illegality or irregularity warranting interference by this Court.

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

Sd/-
Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal District Munsif,
Manamadurai.

+1 cc to Mr.P.Senthur Pandian, Advocate, SR.No:3699

am
sva/jm/10.02.2017/3p/3c

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