

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.10.2018

Coram

The Honourable Ms.Justice P.T.ASHA

C.R.P(PD)No.1253 of 2012

and

M.P.No.1 of 2012

Mr.K.Mohan

...Petitioner

Versus

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The District Revenue Officer,
Office of the DRO,
Tiruvannamalai,
Tiruvannamalai District.

3.The Tahsildar,
Taluk Office,
Cheyyar - 604 407.

4.Kuppammal

5.Eswari

...Respondents

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This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 07.02.2012 passed in I.A.No.936 of 2011 in O.S.No.88 of 2008 on the file of the Principal District Munsif cum Judicial Magistrate Court No.1, Cheyyar.

For Petitioner : Mr.P.Mani
For Respondents : Ms.A.Madhumathi,
Additional Govt. Pleader (C.S)

ORDER

The issue involved in this Civil Revision Petition is akin to the matter which was been disposed of by this Court dated 23.12.2016. Considering the facts are similar in both the matters. The same order is pronounced in the present Civil Revision Petition.

2. The petitioner has filed this Civil Revision Petition to set aside the fair and decreetal orders dated 07.02.2012 passed in I.A.No.936 of 2011 in O.S.No.88 of 2008 on the file of the Principal District Munsif-cum-Judicial Magistrate Court No.1, Cheyyar.

3. The plaintiff is the Revision Petitioner. He filed a suit against the defendant in O.S.No.88 of 2008 for mandatory injunction to issue patta in her name, not to issue patta in the name of the defendants 4 and 5 and for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment over the suit property. On the side of the PW-2 official

the course of his evidence be deposed that the documents relating to the patta and other records with respect to the suit property is available with the office of the 1st respondent and if the Court ordered, it will be produced. Therefore the plaintiff/Revision Petitioner took out an application in I.A.No.936 of 2011 to send for the documents from the office of the respondents 1 and 2 and I.A.No.135 of 2011 to reopen the above suit.

4. The above said applications were resisted by the respondents 1 to 3 herein. It is contended in the counter affidavit that the patta was issued to the respondents 4 and 5 herein, after following due process of law. The petitioner herein is not entitled to get patta to the suit property on the basis of B-Memo. The patta sought for by the revision petitioner for the suit property has already been issued in the name of one Suguna and therefore it need not be sent for. Hence the respondents 1 to 3 prayed to dismiss the above applications.

5. I heard Mr.P.Mani, learned counsel appearing for the petitioner and there was no representation on behalf of the respondents and perused the entire material available on records.

6. At the outset, it is to be pointed out that the revision petitioner has filed the above petitions to send for the documents and to reopen the suit when the above suit was posted for arguments. Now it is to be decided whether the documents sought for by the revision petitioner is to be sent for from the file of 1st respondent namely the District Collector, Thiruvananthapuram District.

7. It is seen from the records that during the course of the evidence of DW-1 who is the Deputy Tahsildar of Cheyyar Taluk Office deposed that patta was issued to the name of respondents 4 and 5 herein and the entire records relating to the patta transfer order is available with the office of the 1st respondent and the same is not available with the 3rd respondent office and so it is not produced before the Court below. If the Court below directly directed from the 1st respondent herein it will be produced. It seems that after the evidence of DW1, since the vital documents namely patta, patta transfer order, and other related documents are necessary document to decide the issue involved in the suit. The revision petitioner filed application in I.A.No.936 of 2011 to send for the above said documents from the file of the 1st respondent herein.

that the revision petitioner has not sought for any relief relating to patta transfer order and therefore the said documents are no way related to the issue involved in the suit.

8. From the reading of the above case and considering the rival submission on either side, the approach of the learned District Munsif is not proper, since the prayer in the suit itself is for mandatory injunction to issue patta in the name of the plaintiff relating to the suit property. Therefore the plaintiff necessarily will have to prove his case by producing all the relevant records. According to the plaintiff/revision petitioner, all documents sought to be sent for are relevant to decide the issue involved in the suit. The Court below could consider the relevancy of document sought to be sent for by the revision petitioner, only after its production. Therefore in the interest of justice, the documents sought for by the revision petitioner are necessarily to be produced by the respondents 1 and 2.

9. In view of the above, I am of the considered view that the order of dismissal made by the Learned Principal District Munsif, is liable to be set aside and accordingly it is set aside.

10. In the result,

(a) the Civil Revision Petition is allowed, by setting aside the order in I.A.No.936 of 2011 in O.S.No.88 of 2008, dated 07.02.2012, on the file of the District Munsif-Cum-Judicial Magistrate Court No.1, Cheyyar;

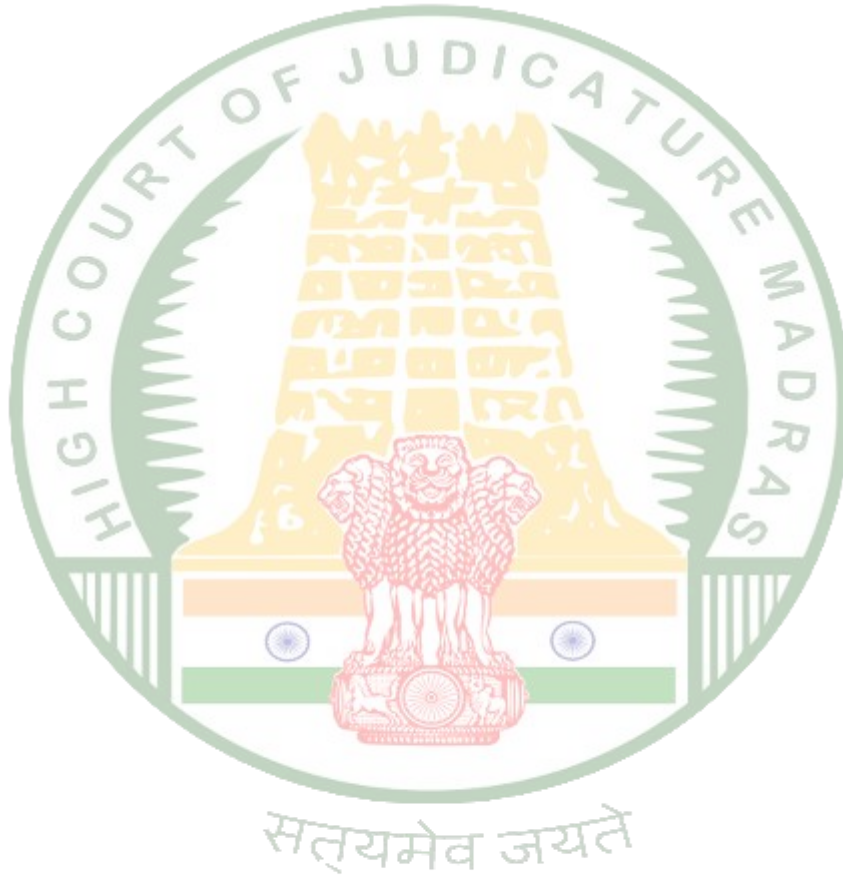
(b) the respondents 1 and 2 are directed to produce the patta issued in the name of the respondents/defendants 4 and 5 before the Court within a period of one month from the date of receipt of a copy of this order;

(c) after producing the document sought for in the I.A.No.936 of 2011, the Learned Judge is directed to take up the suit on day to day basis, without giving any adjournments to either parties and dispose the same within a period of three months thereafter. Both the parties are hereby directed to co-operate for early disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

10.10.2018

To

The Principal District Munsif
cum Judicial Magistrate Court No.1,
Cheyyar.



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P.T.ASHA, J.,

mrr



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