

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2559 of 2015

P.Munirathina Pillai

.. Petitioner

Vs.

Krishta Pillai (died)

1.Sanjeevi

2.Saroja

3.Selvi

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C to set aside the fair and decretal order dated 23.12.2014 made in I.A.No.228 of 2012 in O.S.No.35 of 2000 on the file of the District Munsif Court, Sholinghur, Vellore District.

For Petitioners : Mr.S.Mukunth
for M/s.Sarvabhauman Associates

For Respondents : Mr.P.Kandasamy
for Mr.N.Damodaran

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 23.12.2014 made in I.A.No.228 of 2012 in O.S.No.35 of 2000 on the file of the District Munsif Court, Sholinghur, Vellore District.

2.The petitioner along with his parents filed O.S.No.35 of 2000 on the file of the District Munsif Court, Sholinghur, Vellore District against one Krishta Pillai (since deceased) and first respondent for declaration of title, delivery of possession and for mesne profits. After contest, the said suit was decreed by the judgment and decree dated 31.07.2007. After the death of the petitioner's father and mother, the petitioner is prosecuting the case. The petitioner filed E.P.No.38 of 2008 and took possession of the property. He also filed the present I.A.No.228 of 2012 for a direction to the respondents to pay a sum of Rs.1,12,500/- towards mesne profits over the schedule of the property. According to the petitioner, the respondents cultivated the land from 04.02.2000 to 11.08.2000 totally for 8 years and 6 months (102 months) which includes 25 bogums, till he took possession of the suit property on 11.08.2008 and claimed mesne profit for the same.

3.The second respondent filed counter affidavit and denied the same.

4.Before the learned Judge, the petitioner examined himself as P.W.1 and marked 4 documents as Exs.A1 to A4. On behalf of the respondents, the first respondent was examined as R.W.1 and did

not mark any document. The report and the plan of the Advocate Commissioner was marked as Exs.C1 and C2.

5.The learned Judge considering all the materials available on record and especially Ex.A3 filed by the petitioner and the report and plan of the Advocate Commissioner marked as Exs.C1 and C2, dismissed the application, holding that the petitioner failed to prove that respondents were cultivating the land in question and petitioner is entitled for Rs.1,12,500/- as claimed by him.

6.Against the said order of dismissal dated 23.12.2014 made in I.A.No.228 of 2012 in O.S.No.35 of 2000, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

8.From the materials available on record, it is seen that the evidence of the petitioner and documents filed by him, report and plan of the Advocate Commissioner and Ex.A3 filed by the petitioner shows that the land in question was not cultivated and only grass and thorn bushes are found when the Advocate Commissioner

visited the suit property. The petitioner have not filed any adangal record of the suit property for the period in question to substantiate his contention that the respondents cultivated the land. In view of the same, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 23.12.2014 made in I.A.No.228 of 2012 in O.S.No.35 of 2000.

9.In the result, this Civil Revision Petition is dismissed. No costs.

Index :: Yes/No
gsa

To

The District Munsif,
Sholinghur, Vellore District.

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V.M.VELUMANI,J.

gsa



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