



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.03.2018
CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.R.P. (PD) (MD) No.277 of 2018
and
C.M.P. (MD) Nos.1233 & 1234 of 2018

Vijay Chakkaravarthi
Through his power agent
Sathaiah

... Petitioner / 1st respondent /
Plaintiff

vs.

1.Saroja

... 1st Respondent / Petitioner /
1st Defendant

2.The District Collector,
O/o. The District Collector,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Devakottai.

4.The Tahsildar,
Karaikudi.

... Respondents 2 to 4 / Respondents 2 to 4 /
Defendants 2 to 4

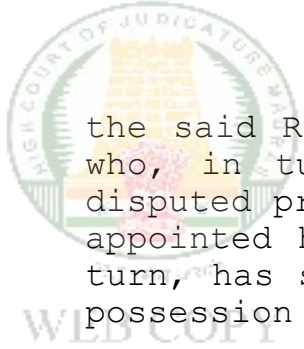
PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 06.07.2017 passed in I.A.No.599 of 2015 in O.S.No.69 of 2015 on the file of the Additional District Munsif, Karaikudi.

For Petitioner : Mr.K.N.Govardhanan
For Respondents : Mr.T.Antony Arul Raj, for R.1
Mr.C.Ramar,
Additional Government Pleader for R.2 to R.4

ORDER

This Civil Revision Petition has been filed challenging the order passed by the learned Additional District Munsif, Karaikudi, in I.A.No. 599 of 2015 in O.S.No.69 of 2015 dated 06.07.2017.

2. The facts of the case are that the property in Old S.No.42/20 originally belonged to one Thangaraj and he had sold the same to one Solaiyappan. Patta was also transferred in the name of Solaiyappan on 25.01.1987. Thereafter, the said Solaiyappan had appointed one Vivekanandan as his power agent, who, in turn, had sold the property to one Rajaiah on 12.09.2002. Subsequent thereto,



the said Rajaiah had appointed one Padmanabhan as his power agent, who, in turn, has sold an extent of 1 Acre 23.70 cents of the disputed property to the petitioner/plaintiff and the petitioner has appointed his father, namely, Sathiah, as his power agent, who, in turn, has sold the suit property to various persons, who are all in possession and enjoyment of the same right now.

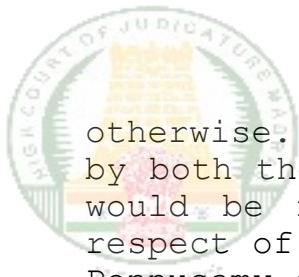
3. Such being so, nearly after a lapse of 23 years from the date of transfer of patta from the original owner the said Thangaraj, the first respondent herein, claiming to be the wife of the said Thangaraj, has preferred an appeal before the third respondent challenging the patta transfer order. It is the case of the petitioner that the said Thangaraj has not married anyone. However, the third respondent, without affording an opportunity of hearing to the interested parties, has allowed the same on 22.12.2011. Aggrieved thereby, W.P.(MD)No.491 of 2012 came to be filed and this Court, by order dated 04.06.2014, has quashed the order of the third respondent herein and remitted the matter back for fresh consideration. Pursuant to the same, the third respondent, after conducting an enquiry, has arrived at the same conclusion. Challenging the same, the petitioner has preferred the suit in O.S.No.69 of 2015, by adding the first respondent herein as first defendant, i.e., Saroja, W/o.Ponnusamy, before the Additional District Munsif Court, Karaikudi, and the same is pending.

4. It is the specific contention of the learned Counsel for the petitioner that pending suit proceedings, even before the filing of written statements, the first respondent has filed the present interlocutory application in I.A.No.599 of 2015 to amend the name of her husband as (Late) Thangaraj instead of Ponnusamy. He would reiterate that the said Thangaraj has not married anyone, however, the lower Court, after hearing both the sides, has erroneously allowed the said petition and therefore, he prays for interference by allowing the present revision petition.

5. The learned Counsel appearing for the first respondent, on the other hand, would submit that she is the wife of (late) Thangaraj and having been aware of the same, the petitioner, with an ill motive, has instituted the suit by mentioning the husband's name of the first respondent as Ponnusamy instead of Thangaraj. He would further submit that only for the purpose of the suit, the petitioner has wantonly given the same and therefore, the first respondent has filed the interlocutory application, which was rightly allowed by the lower Court and hence, he prays for dismissal of the present revision petition.

6. Heard the learned Counsel appearing on both sides and perused the documents placed on record.

7. According to the petitioner, the said Thangaraj has not married anyone and the first respondent herein is the wife of one Ponnusamy. However, according to the first respondent, it is



otherwise. As the name of the first respondent's husband is disputed by both the parties, this Court is of the view that ends of justice would be met, if an issue is framed before the lower Court in respect of the husband's name of the first respondent, as to whether Ponnusamy or Thangaraj?

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8. In such a view of the matter, this Court, while declining to interfere with the impugned order, directs the Additional District Munsif, Karaikudi, to frame an issue as to the name of the first respondent's husband, whether Ponnusamy or Thangaraj; and decide the same, in accordance with law.

9. With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

The Additional District Munsif,
Karaikudi.

COPY TO:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.T.Antony Arul Raj, Advocate SR.No. 56764

+1cc to Special Government Pleader, SR.No. 56782

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20.03.2018

gk

JM/SV MMS/SAR 4/06.04.2018/3P/6C