



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 15.02.2018

DELIVERED ON : 28.03.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.317 of 2018

and

C.M.P. (MD) No.1492 of 2018

A.Manikandan : Petitioner/Petitioner /1st defendant

Vs.

1.C.Muthumanickam :1st Respondent/1st Respondent/Plaintiff

2.M.Muthupandi

3.S.Sugumaran :Respondents 2 & 3/Respondents 2 & 3/
Defendants 2 & 3

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair Order and Decreetal Order dated 15.12.2017, passed in I.A.No.1442 of 2017 in O.S.No.75 of 2009, on the file of the District Munsif Court, Melur, Madurai District.

For Petitioner : Mr.M.Kannan

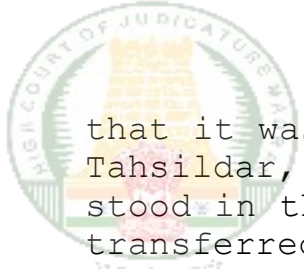
ORDER

This Civil Revision Petition is filed against the Order and Decreetal Order dated 15.12.2017, passed in I.A.No.1442 of 2017 in O.S.No.75 of 2009, on the file of the District Munsif Court, Melur, Madurai District.

2. The petitioner has filed I.A.No.1442 of 2017 in O.S.No.75 of 2009 seeking a direction to the Tahsildar, Madurai East, to produce the 'A' Register extract relating to the suit property for the period from 1990 to 2008 and 2009-2010, Chitta copy and the file relating to transfer of patta, from the name of the petitioner's father Achuraman to the petitioner, which was dismissed by the lower Court against which, the Civil Revision Petition has been filed.

3. The facts of the case, in nutshell, are as follows :

3.1. The Petitioner is the first defendant in the suit. The first respondent/plaintiff herein filed the Suit in O.S.No.75 of 2009 for declaration and permanent injunction. The above Interlocutory Application has been filed by the petitioner stating



that it was necessary to summon the records from the office of the Tahsildar, Madurai East, to prove that initially the patta No.33 stood in the name of the petitioner's father and then the same was transferred to the name of the petitioner, as per the order made on 04.12.2008. Since all the records have been made online, the old document copies could not be obtained by the petitioner and if the above documents are not summoned through the Tahsildar, the petitioner would be put to serious prejudice and he would rely on the judgment reported in **2015-2- L.W- 460 in the case of G.Venkatesan Vs. Balu.**

4. The 1st respondent/plaintiff, before the lower Court, through his counter affidavit has submitted that the petitioner/1st defendant has already filed the 'A' Register extract and Chitta copy relating to the suit property and hence, the present petition is unwarranted. In order to drag on the proceedings, the petitioner has filed this petition and hence, he prayed for dismissal, but on the date of argument, he was not present before the Court.

5. The Court below, by an order dated 15.12.2017, dismissed the petition. Aggrieved by the said order, the petitioner herein had preferred the above Civil Revision Petition.

6. Heard the learned Counsel for the petitioner and perused the materials available on record. Notice to the respondents is dispensed with.

7. Perusal of records shows that the suit is of the year 2009 and the documents sought to be marked are documents of the year 1990 to 2008 and 2009-2010. The suit has been pending from the year 2009. The petitioner has not taken any steps to get the document from the concerned department even prior to filing of the suit or when the suit was pending. Earlier one Interlocutory Application has been filed for marking of certain document in I.A.No.894 of 2017, which was allowed on 10.07.2017 and the documents were marked and once again the present petition has been filed.

8. In the above circumstances of the case, it is very useful to extract 75(3) of the Civil Rules of Practice to find out whether such an application is mandatory to summon the original document.

"No Court shall issue such a summons unless it considers the production of the original is necessary or is satisfied that the application for a certified copy has been duly made and has not been granted."

9. Perusal of the present petition does not disclose whether the petitioner has applied for the document sought to be marked by the Tahsildar and as to the status of such application



if it has been filed and in the absence of the same referring to Civil Rules of Practice, Rule 75(3) the learned Judge dismissed the application.

10. In the present circumstances of the case, in the absence of any particulars as to the steps taken by the petitioner to get the document from the concerned department and as to the status of such application, the petitioner cannot seek remedy under Rule 75 of the Civil Rules of Practice and the judgment relied on by the learned Counsel for the petitioner does not apply to the present circumstances of the case. Therefore, in my considered opinion, the present application has been filed only to protract the proceedings and the dismissal order of the learned Trial Judge does not warrant any interference.

11. In the result, finding no merit, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Melur,
Madurai District.

+1cc to Mr.M.Kannan, Advocate Sr.No.59366

RM

VB/SKN/RSK/SAR4/16.04.2018/3P/3C

order made in
C.R.P. (PD) (MD) No.317 of 2018
28.03.2018