



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.03.2018

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WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) Nos.411 and 412 of 2018 (PD)

and

C.M.P. (MD) .No.1814 of 2018 in C.R.P. (MD) .No.411 of 2018

V.Ravindran

.. Petitioner in both the petitions/
Petitioner / Plaintiff

Vs.

R.Muthukrishnan

.. Respondents in both the petitions/
Respondent / Defendant

PRAYER: Petitions filed under Article 227 of of the Constitution of India, praying to set aside the fair and decreetal orders, dated 15.11.2017, passed in I.A.Nos.560 and 561 of 2017 in O.S.No.24 of 2010 by the learned District Munsif cum Judicial Magistrate, Thirumayam.

For Petitioner in
both the petitions : Mr.G.Sridharan

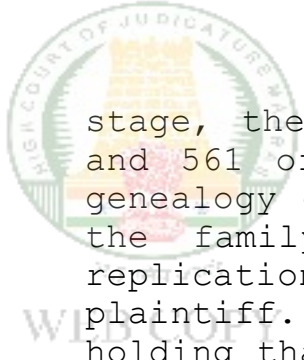
For respondent in
both the petitions : Mr.K.N.Govardhanan

COMMON ORDER

These revision petitions have been filed by the petitioner / plaintiff challenging the fair and decreetal orders, dated 15.11.2017, passed by the learned District Munsif cum Judicial Magistrate, Thirumayam, in I.A.Nos.560 and 561 of 2017 in O.S.No.24 of 2010.

2. As the issue involved in both the revision petitions are interrelated to each other, they were heard together and are disposed of by way of this common order.

3. The revision petitioner herein, as plaintiff, has filed the suit in O.S.No.24 of 2010 on the file of the learned District Magistrate, Thirumayam, for permanent injunction against the respondents / defendants. At the argument



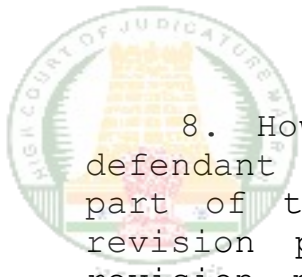
stage, the revision petitioner / plaintiff has filed I.A.Nos.560 and 561 of 2017 seeking to reopen the case and to receive the genealogy of the family of the petitioner / plaintiff and that of the family of the respondent / defendant, as part of the replication statement which already filed by the petitioner / plaintiff. The said applications were dismissed by the Court below holding that filing of the genealogy is not necessary and it is no way related to prove the possession and enjoyment of the suit property, against which the present civil revision petitions are filed.

4. The learned counsel for the revision petitioner / plaintiff would submit that the specific case of the revision petitioner / plaintiff is that the patta to the suit property originally stood in the name of the petitioner's grandfather V.Rengasamy, S/o.Venkatasamy and now, the same stands jointly in the name of the petitioner and his two brothers by name Rajasekaran and Balasundar. But, the respondent / defendant dishonestly claims that his grandfather name is Venkatasamy @ Venkatarayalu with a view to grab the suit property, though actually, his grandfather name is Venkatarayalu only. He would further submit that in order to find out the real controversy between the parties viz., who is the original owner of the suit property, the genealogy consisting the family of both the plaintiff and the defendant is very much essential. But, the Court below, without considering the same, dismissed the said applications. Thus, he prayed to allow both the civil revision petitions.

5. The learned counsel for the respondent / defendant would submit that the only statement made by the revision petitioner / plaintiff in the plaint is that the suit property is ancestrally belonging to him and this is the first time, he has disclosed the name of his grandfather and great-grandfather at the fag end of the trial and if the genealogy is treated as a part of the document, it would change the entire character of the suit. Thus, he prayed to dismiss both the civil revision petitions.

6. Heard the learned counsel for the appearing for the revision petitioner / plaintiff and the learned counsel appearing for the respondent / defendant and perused the records carefully.

7. Admittedly, the document, which sought to be received ie., genealogy of both the family of the parties, by the revision petitioner / plaintiff, would not lead to prove the possession and enjoyment of the suit property. Therefore, the character of the suit will not be changed. In order to throw some light on the issue, the revision petitioner / plaintiff sought to reopen the case and to receive the genealogy of the family of both the parties. It is not pleaded by the respondent / defendant that the genealogy stated by the revision petitioner / plaintiff is wrong.



8. However, when the learned counsel for the respondent / defendant stoutly objected to mark the genealogy statement as a part of the replication statement, which already filed by the revision petitioner / plaintiff, the learned counsel for the revision petitioner / plaintiff has submitted that he has no objection in marking genealogy statement as a document. At this juncture, the learned counsel for the respondent / defendant would submit that in such an event, the respondent / defendant may be given an opportunity to cross examine the witness. In view of the above, both the civil revision petitions are disposed of with the following directions:

The revision petitioner / plaintiff is directed to file the genealogy statement of the family of both the parties before the Court below under Order 19 Rule 1 C.P.C. on or before 12.03.2018. The Court below is directed to reopen the case and to receive the genealogy to be submitted by the revision petitioner / plaintiff as a document on or before 16.03.2018. If necessary, the respondent / defendant shall cross examine the witness within one week thereafter.

9. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Thirumayam.

+2. CC to Mr.G.Sridharan, Advocate SR.Nos.52176 & 52175

+1. CC to Mr.K.N.Govardanan, Advocate SR.No.52285

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