



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 26.09.2018

DELIVERED ON : 24.10.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No.1120 of 2015

and

M.P. (MD) No.1 of 2015

A.M.Natrayan

.. Petitioner

Vs.

Susila Kumari

.. Respondent

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the Judgment and decree order dated 25.03.2015 made in C.M.A.No.7 of 2014 on the file of the Sub Court, Vedachandur reversing the fair and final order dated 29.03.2010 made in I.A.No.11 of 2010 in O.S.No.7 of 2010 on the file of the District Munsif Court cum Judicial Magistrate, Kodaikanal.

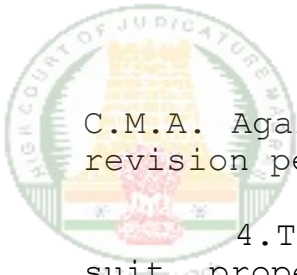
For Petitioner : Mr.T.K.Bhaskar
For Respondent : Mr.D.Venkatesh

ORDER

Heard Mr.T.K.Bhaskar, learned counsel appearing for the petitioner and Mr.D.Venkatesh, learned counsel appearing for the respondent.

2.This petition has been filed to set aside the Judgment and decree order dated 25.03.2015 made in C.M.A.No.7 of 2014 on the file of the Sub Court, Vedachandur reversing the fair and final order dated 29.03.2010 made in I.A.No.11 of 2010 in O.S.No.7 of 2010 on the file of the District Munsif Court cum Judicial Magistrate, Kodaikanal.

3.The petitioner herein is the defendant and the respondent herein is the plaintiff in the suit. The respondent herein has filed a suit in O.S.No.7 of 2010 seeking for a prayer of declaration and for permanent injunction. The respondent herein has filed a petition in I.A.No.11 of 2010 for a prayer of temporary injunction. The learned District Munsif granted an interim relief. However, after hearing both sides, the learned District Munsif dismissed the I.A. petition. The respondent herein has filed an appeal in C.M.A.No.7 of 2014 before the Sub Court, Vedachandur. The learned Sub Judge has set aside the order of the learned District Munsif and allowed the



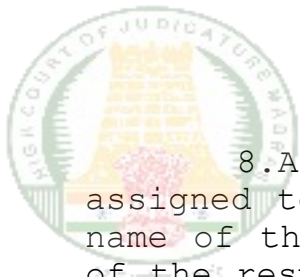
C.M.A. Against the order, the petitioner has come forward with this revision petition.

4.The case of the plaintiff/respondent herein is that the suit properties belonged to the respondent's husband, namely, A.M.Raja by way of a Government Assignment dated 25.02.1979. The said Raja executed a gift deed on 19.02.2009 in favour of the respondent herein. The petitioner herein who is the neighbouring land owner is taking care of the suit property at the request of the respondent herein. But the revenue records, house tax receipts and E.B. Connection were in the petitioner's name. On 20.09.2009, the petitioner tried to trespass into the property and hence, an injunction order is necessary.

5.The case of the defendant/petitioner herein is that the suit property was assigned to A.M.Raja. But it did not belong to the respondent herein. Either the respondent or her husband or the power agent never enjoyed the property. The house tax receipts and E.B. Connection are in the name of the petitioner. The respondent's husband and the petitioner are brothers. The respondent's husband executed a deed on 29.05.1986 in favour of the petitioner regarding the suit property and another property after getting Rs.45,000/- (Rupees Forty Five Thousand only) and on condition that the petitioner has to repay the mortgage loan amount that is due to the said Raja from Bala Subramani. On the basis of the deed, the petitioner redeemed the mortgage. After the redemption of the mortgage, the petitioner approached the respondent's husband for the execution of the sale deed. The respondent and her husband executed some forged documents and created revenue documents and the petitioner is in possession of the property. The suit properties are in the enjoyment of the petitioner. After getting interim order, the power agent of the respondent destroyed cultivation and tried to attack the petitioner and his man and a complaint was lodged before the Police.

6.On the side of the respondent, it is stated that mortgage was redeemed by both the respondent's husband and the petitioner and there is no consideration on the basis of alleged sale agreement. The farm house was constructed by the respondent's husband. The petitioner supervised the same and he registered the house in his name.

7.On the side of the petitioner, it is stated that the respondent has admitted that the petitioner was appointed as the care taker of the respondent's husband. The petitioner has filed Exs.P4 to P14 to prove the possession and that the respondent has admitted that they are 85 kms away from the suit property. They have appointed the petitioner as a care taker. The respondent failed to elicit when he was appointed and how he was appointed and the petitioner never admitted the title of the respondent. The petitioner is claiming the property as per document dated 29.05.1986.



8.A perusal of the records reveals that the property was assigned to the respondent's husband. Exs.P4, P6 and P8 are in the name of the respondent's husband and Exs.B9 to B13 are in the name of the respondent's husband. The case of the respondent is that she is living 85 kms away from the suit property and the petitioner is the care taker of the property. By using the position, the petitioner is paying the house tax and EB bill in his name. The house tax receipts and EB bill in the name of the petitioner are marked as Exs.B3 to B7. The Village Administrative Officer has given a Certificate that the petitioner is in possession of the property which is marked as Ex.B8. The trial court on considering the documents which is the name of the petitioner, dismissed the I.A. Petition for the relief of injunction. The petitioner is claiming the property by way of the deed dated 29.05.1986. The validity of this document can be decided only after the trial in the original suit. The respondent herself has admitted that the petitioner was taking care of the suit property. The petitioner is paying the house tax and E.B. Bill. The suit is filed for declaration and for permanent injunction. If any order is passed in this petition, it may affect the proceedings in the trial.

9.In the above circumstances, this Court deems it fit to pass an order of status quo to be maintained till the disposal of the case. The trial Court is directed to dispose of the suit within a period of two months from the date of receipt of copy of this order. The parties are directed to co-operate for speedy disposal of the case. No Costs. With the above direction, this Civil Revision Petition is disposed of. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Subordinate Judge, Vedachandur.

2.The District Munsif Court cum Judicial Magistrate, Kodaikanal.

• 1 CC TO Mr.Srinath Sridevan , ADVOCATE IN SR No.91724.

• + 1 CC TO Mr.D.Venkatesh , ADVOCATE IN SR No.91982.

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• MRN

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24.10.2018