



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) Nos.1124 and 1125 of 2018
and

C.M.P. (MD) .No.4819 of 2018 in C.R.P.No.1124 of 2018

P.A.S.P.Jeyavel ... Petitioner in both C.R.Ps.

Vs.

1. R.Jeyaveeran

2. K.Ashok Kumar

... Respondents in C.R.P.No.1124/2018

3. The Virudhunagar Municipality,
represented by the Commissioner,
Virudhunagar.

... Respondent in both C.R.Ps.

PRAYER: The Civil Revision Petitions are filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.12.2017 passed in I.A.Nos.877 and 878 of 2017 in O.S.No.188 of 2014 on the file of the District Munsif Court, Virudhunagar.

For Petitioner : Mr.R.Govindaraj

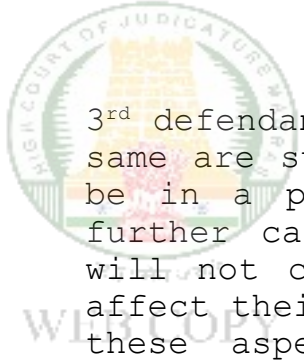
For R1 & R2 : Mr.G.Mariappan (Caveator)

C O M M O N O R D E R

These Civil Revision Petitions have been filed against the fair and decreetal order passed by the District Munsif Court, Virudhunagar in I.A.Nos.877 and 878 of 2017 in O.S.No.188 of 2014, dated 05.12.2017.

2. The petitioner is the plaintiff and he has filed a suit in O.S.No.188 of 2014 before the District Munsif Court, Virudhunagar for permanent injunction and declaration against the respondents. The said suit was resisted by the respondents by filing written statement. During the pendency of the suit, the petitioner/plaintiff filed I.A.Nos.877 and 878 of 2017 before the District Munsif Court, Virudhunagar to re-open the case and for production of documents relating to name transfer in Tax. But the trial Court has dismissed the applications, against which, the present Civil Revision Petitions have been filed before this Court.

3. The case of the revision petitioner is that the documents, which are sought to be produced are in the custody of the



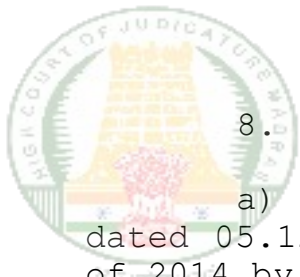
3rd defendant / Municipality, being public documents, and unless the same are summoned or ordered to be produced, the plaintiff may not be in a position to adjudicate his case effectively. It is the further case of the petitioner that such production of documents will not cause any prejudice to the defendants and also will not affect their case. However, the Trial Court, without considering all these aspects, has simply dismissed the applications, thereby leaving the petitioner at lurch.

4. Learned counsel for the Caveators has contended that the order of the Trial Court is a well considered one and having kept quiet for so many years, the petitioner has now come up with the plea of reopening of the case and production of documents, which are in the custody of the Municipality. Moreover, when there is a separate provision for summoning the documents, the petitioner cannot invoke Section 151 CPC for the said purpose and therefore, on this sole ground, the petitions are liable to be dismissed.

5. Heard the learned counsel for the petitioner, the learned counsel for the respondents 1 and 2 and perused the materials placed before this Court.

6. In the suit, the plaintiff sought for declaration and permanent injunction and though the Municipality was added as 3rd defendant in the suit, no documents have been produced on the side of the Municipality and no one was also examined on their side. According to the petitioner, some of the documents, which are vital to substantiate his case are being kept in the domain of the Municipality and the said Municipality had simply added the names of the private respondents herein in the property tax payable in respect of the 2nd schedule property and no particulars / documents have been furnished for such inclusion.

7. There is force in the contention raised by the learned counsel for the petitioner. The Trial Court in support of its finding has held that the Court need not go into the documents of the Municipality to decide as to the ownership of the property and in the event of any wrong entry, the same would be ordered to be rectified by the Municipality. Since the defendants 1 & 2 have not denied that the property tax is being paid by them on account of inclusion of their names in it, the base for such inclusion should be clarified by the Municipality through proper documents, without which, the substantial justice cannot be rendered. Moreover, the plaintiff is also left handicapped to prove his case due to lack of documents and the plaintiff merely seeks for production of those documents before the Court for verification, not otherwise. Therefore, this Court is of the view that the orders of the Trial Court dated 05.12.2017 made in I.A.Nos.877 and 878 of 2017 in O.S.No.188 of 2014 by the learned District Munsif, Virudhunagar, have no legs to stand and the same are liable to be dismissed.



8. In the result,

a) these Civil Revision Petitions are allowed and the orders dated 05.12.2017 made in I.A.Nos.877 and 878 of 2017 in O.S.No.188 of 2014 by the learned District Munsif, Virudhunagar, are set aside;

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b) the 3rd respondent Municipality is directed to produce the particular documents sought for by the petitioner before the learned District Munsif, Virudhunagar, within a period of two weeks from the date of receipt of a copy of this order;

c) the learned District Munsif, Virudhunagar, upon receipt and scrutiny of the same, is directed to dispose of the suit in O.S.No.188 of 2014, within a period of three months thereafter.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To:

1.The District Munsif,
Virudhunagar.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to Mr.R.Govindaraj, Advocate, SR.No.70422.

+1cc to Mr.G.Mariappan, Advocate, SR.No.70362.

C.R.P.(PD) (MD) Nos.1124 and 1125 of 2018

akv

RAM/SV/SAR 2/17.07.2018/3P/6C