



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.01.2018
(Reserved on 24.10.2017)

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (PD) (MD) No.1510 of 2017
and
CMP (MD) No.8213 of 2017

Jeyapraakash

... Petitioner

vs.

1) AL.AR.K.VR.Chinna Veerappan
2) Veerasekaran
3) Duraisamy
4) Kasiviswanathan
5) Kannan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 04.07.2017 made in I.A.No.26 of 2017 in O.S.No.36 of 2012 on the file of the District Munsif Court, Devakottai.

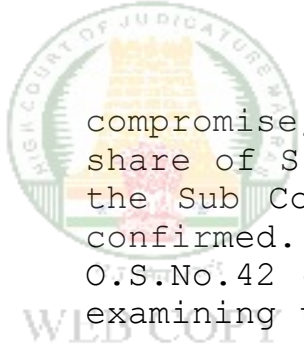
For Petitioner : Mr.R.Vijayakumar
For R1 : Mr.S.Madhavan
For R2 to R5 : Mr.G.Thiruvart Selvan

ORDER

This Civil Revision Petition has been filed against the order dated 04.07.2017 made in I.A.No.26 of 2017 in O.S.No.36 of 2012 on the file of the District Munsif Court, Devakottai.

2.Learned counsel for the petitioner would aver that the suit has been filed for the relief of declaration of title and permanent injunction. The suit property originally belonged to Devakottai Jamin and the same was given to the grandfather of the petitioner by the Jamindar and the petitioner was in continuous possession of the suit property and the defendants have no right over the suit property. The defendants filed written statement contending that they are legal heirs of one Kalairajan Chettiar who was the Devakottai Jamin and hence they are entitled to the suit properties.

<https://hcservices.e-governance.gov.in/hcservices> Further submitted that pending suit, the plaintiffs came to know that there was a partition suit among the legal heirs of Devakottai Jamin in O.S.No.75 of 1994 and it ended in



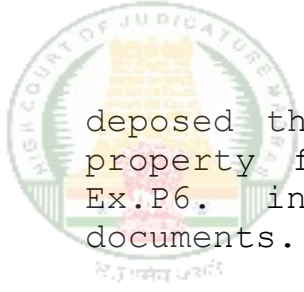
compromise, by which, the suit properties were allotted to the share of S.M.Narayana Chettiar in O.S.No.42 of 2002 on the file of the Sub Court, Devakottai and title of S.M.Narayana Chettiar was confirmed. The judgment and decree in O.S.No.75 of 1994 and O.S.No.42 of 2002 have already been marked in the present suit by examining the said S.M.Narayana Chettiar as PW3.

4.Learned counsel for the petitioner would further submit that since the suit properties have been allotted to the share of S.M.Narayana Chettiar, by way of abundant caution, the plaintiffs purchased the suit properties from the said S.M.Narayana Chettiar under a registered sale deed dated 10.03.2014 which has also been marked in the suit. It is further submitted that the details about the judgment and decree in O.S.No.75 of 1994 and O.S.No.42 of 2002 came to the knowledge of the petitioner only pending suit. Hence, the petitioner has filed I.A.No.26 of 2013 to receive reply statement. The said I.A was dismissed on the ground that the plaintiffs are trying to change the cause of action and trying to fill up lacuna. Aggrieved over the said order, the present revision petition has been filed.

5.Learned counsel for the 1st respondent submits that the suit for declaration was filed on 22.03.2012 and written statement was filed on 08.06.2012 and now the revision petitioner has taken a stand that after filing suit for declaration, in 2014, he has purchased half of the suit property from a person who has nothing to do with the suit and claims that he wanted to file a statement regarding the above transaction and after the issues were framed and after completion of evidence when the matter was posted for arguments, the petitioner has filed the present petition which would change the entire character of the suit and is not maintainable. Therefore, he prayed for dismissal of the petition.

6.Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

7.Perusal of the records shows that the petitioner has filed a suit for declaration and permanent injunction in respect of the suit property. The defendant filed written statement as early as on 08.06.2012 and evidence has been completed. From the perusal of the plaint, it is seen that the petitioner has stated that the suit schedule property had been enjoyed by his ancestors and after the death of his father, the plaintiffs are enjoying the suit property and they had claimed that the defendant got nothing to do with the suit property. In his deposition, the revision petitioner has stated that the property is ancestral property and the property is in possession and enjoyment of the plaintiffs. It is the further deposition of the revision petitioner that the defendant has purchased the suit property from one Subramanian Chettiar and while purchasing the property he has not obtained parent documents. The revision petitioner has also



deposed that while the suit was pending, he purchased the suit property from S.M.Narayanan Chettiar vide sale deed marked as Ex.P6. in 2004 and also deposed that he had not obtained parent documents.

8. Now in the reply petition, he has stated that he got the document to show the title of S.M.Narayanan Chettiar as to the extent of land possessed by him. Though the revision petitioner has stated in his plaint that the suit property belonged to the Jamin and though claimed title by adverse possession, now the present petition has been filed stating that he has purchased the property from one of the legal representatives of the Jamin which is totally contrary to the claim made in the plaint and therefore, at the stage of arguments, an application has been filed to incorporate all these developments in the plaint which in my considered opinion will change the entire character of the suit and the suit has to be proceeded from the beginning and it is only an attempt to protract the proceedings and therefore, the interference of this Court is not necessary. There is no infirmity in the impugned order of the Court below.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl side)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Devakottai.

+ 1 cc TO Mr.R.Vijayakumar , Advocate in SR No. 43031

+ 1 cc TO Mr.G.Thiruvarut Selvan , Advocate in SR No. 43318

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AE/KK/SAR2/02.02.2018/3P/4C

C.R.P (PD) (MD) No.1510 of 2017
19.01.2018