

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD) Nos.1332 and 1333 of 2015

And

M.P.No.1 of 2015

Krishnamoorthy ... Petitioner in both the revisions

Vs.

1.Selvakumar

2.Sengodagounder

3.Sellappagounder

... Respondents in both the revisions

Common Prayer:

Petitions filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 22.01.2015 made in I.A.Nos.1068 and 1069 of 2014 in O.S.No.166 of 2009 on the file of the learned Additional District Munsif Court, Tiruchengode, by allowing the Civil Revision Petitions.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.S.Palaniswamy

COMMON ORDER

The petitioner is the plaintiff in the suit in O.S.No.166 of 2009. The suit was instituted in the year 2009 for mandatory injunction. Thereafter, the petitioner filed I.A.No.925 of 2014 under Order 18 Rule

17 of C.P.C. to recall P.W.3., on the ground that some important questions were left out. The said petition was dismissed by the Trial Court on 10.10.2014.

2. Thereafter the petitioner filed I.A.No.1068 of 2014 under Section 151 of C.P.C., seeking to reopen the plaintiff's side evidence for the purpose of examining further witness on the side of the plaintiff and I.A.No.1069 of 2014 under Order XVI Rule 1 (2) and Section 151 of C.P.C., seeking to pass an order to issue witness summons to the District Collector, Namakkal, to appear before the Court along with a copy of the old A-Register for S.No.52 of Elanagar Village, Tiruchengode Taluk, Namakkal District and to give evidence on the side of the plaintiff.

3. The said petitions were dismissed by the Trial Court on the ground that earlier the petitioner filed I.A.No.925 of 2014 for recalling the evidence of P.W.3 Thasildhar and the said petition was dismissed, however, the order passed in I.A.No.925 of 2014 was not challenged and fresh petition has been filed for the very same prayer and the petition has been filed to drag on the proceedings, against which, the present revisions are filed.

4.The learned counsel for the petitioner submitted that earlier in his cross examination, the Tahsildar stated that he did not possess A-Register and he do not know as to who is in possession of A-Register. Inorder to ascertain the old A-Register, it is necessary to issue summon to the District Collect and call for old A-Register to enable the plaintiff to prove his possession and enjoyment in the suit cart track. However, the Trial Court without considering these aspects dismissed the interlocutory applications. Accordingly, he prayed for allowing the revisions.

5.The learned counsel for the respondents would submit that the suit cart track belongs to the respondents and would further submit that it is the duty of the petitioner to establish his possession through proper title.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The suit was instituted in the year 2009. Both side examination and cross examination was over in the year 2014. Thereafter the petitioner filed interlocutory application for recalling

P.W.3/ Tahsildar in I.A.No.925 of 2014. The said petition was dismissed on 10.10.2014 itself. However, without challenging the earlier order, the present petition to issue summons to the District Collector, Namakkal, to appear before the Court along with a copy of the old A-Register for S.No.52 of Elanagar Village, Tiruchengode Taluk, Namakkal District and to give evidence on the side of the plaintiff has been filed which is un-sustainable. The petitioner intend to ascertain old A-Register prior to UDR Scheme. However, the petitioner did not challenge the UDR Scheme.

8.This Court is of the view that the petitioner has filed these petitions before the Trial Court only to drag on the proceedings. Hence, this Court do not find any error in the order passed by the Trial Court.

9.The civil revision petitions are accordingly dismissed. However, considering the fact that the suit is of the year 2009, this Court directs the learned Additional District Munsif, Tiruchengode, to complete the trial in O.S.No.166 of 2009 and dispose of the same within a period of three months from the date of receipt of a copy of this order.

10.The civil revision petitions are accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

09.04.2019

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

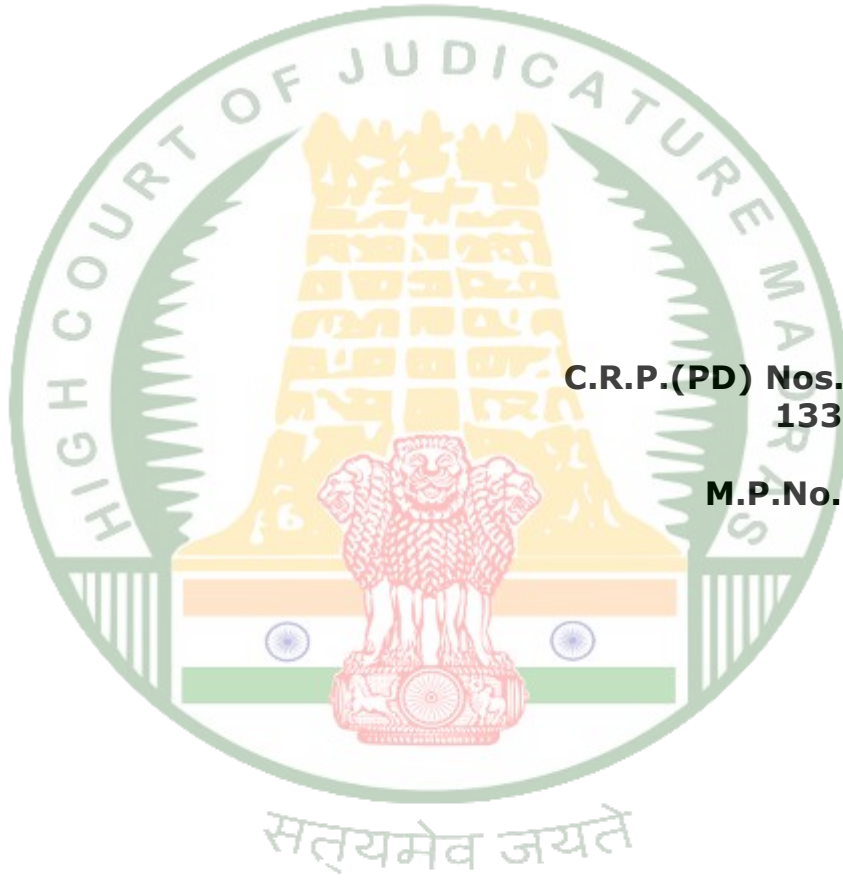
To

1.The Additional District Munsif Court,
Tiruchengode.



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M.DHANDAPANI,J.
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