

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

CRP.No.870 of 2019
and
C.M.P.No. 5690 of 2019

1.J.P.Kanthasamy
2.B.Natrajan

..Petitioners/Plaintiffs

Vs

Subhulakshmi (Died)

1.Devi
2.Sumathi
3.Murali
4.Kalamani @ Kalavathi
5.Rathnam
6.R.Ravi @ Munusamy
7.R.Manicham
8.R.Logu

..Respondents 1 to 5 / Defendants 2 to 6

.. Respondents 6 to 8/ LRS-D1

(R7 to R9 therein Impleaded as per order in I.A.No. 58 of 2018 dated 05.06.2018 and amended as per order in I.A.No. 67 of 2018 dated 27.06.2018)

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order in C.M.A.No. 6 of 2011 dated 29.11.2018 on the file of the Subordinate Court of Bhavani, Erode District and confirming the fair and final order in I.A.No. 471 of 2011 in O.S.No. 151 of 2011, dated 29.06.2011 on the file of the Principal District Munsif Court at Bhavani, Erode District and by allowing the present Civil Revision Petition.

For Petitioners : Mr.MA.P.Thangavel
For R1 to R4 &
R6 to R8 : Mr.B.Kumarasamy

O R D E R

The above Civil Revision Petition is filed challenging the order passed in C.M.A.No.6 of 2011, which was dismissed by the learned Subordinate Judge, Erode, in and by which, the order passed in I.A.No. 471 of 2011 in O.S.No. 151 of 2011 was confirmed.

2 The brief facts are as follows:

The revision petitioners had filed a suit for bare injunction against the respondents who according to them, were disturbing their possession. Their case is that they have been cultivating the lands in question, which originally belonged to one K.M.Ramasamy Mudaliar of Jambai Village, Bhavani Taluk and the lands in question have been referred to his K.M.R.Thottam and these lands had been taken on lease by the plaintiffs as early as in the year 1970. The said K.M.Ramasamy Madaliar had three daughters 1) Subbulakshmi, the first defendant, 2) Dhanabagyam, the mother of defendants 2 to 4, 3) Kalamani @ Kalavathi, 5th defendant and one son J.R.Sengottuvelu, the husband of sixth defendant. On 24.04.1985, said K.M.Ramasamy Mudaliar had bequeathed the suit property in favour of the son J.R.Sengottuvelu and after the death of the father (K.M.Ramasamy Mudaliar) on 09.11.1986, the son had became the owner of the suit property. The annual rent due for the land was paid originally to K.M.Ramasamy Madaliar and thereafter to his son J.R.Sengottuvelu. When the plaintiffs had taken suit property on lease, suit property was not fit for cultivation they had spent huge amounts for making the lands cultivable. The plaintiffs would also contend that they have been regular suppliers of sugarcane to Sakthi Sugars limited, J.R.Sengottuvelu had executed a Will on 31.01.1998, bequeathing the suit property and his other properties to and in favour of his sisters namely defendants 1,5 and mother of defendants 2 to 4 and their legal heirs. J.R.Sengottuvelu died on 06.09.2004 and defendants came into possession of the property and it was thereafter that they started interfering in the enjoyment of the suit property by the revision petitioners. The suit property has been described as extent of 2.51.0 hectares in different survey numbers of Janmbai Village, Bhavani Taluk, Erode District together with three Tiled houses.

3 The defendants had entered appearance in the said suit and had categorically denied that the plaintiffs were cultivating tenants and according to them, they are only farm workers and that they had not been in a possession of the property and only taking care of the land on their behalf. The plaintiffs are not entitled for an ad-interim injunction and the counter was also on the same lines.

4 Ultimately, the learned Principal District Munsif, Bhavani, by an order dated 29.06.211 was pleased to grant interim order of injunction despite that fact that the defendants 1 to 5 had not been able to show possession over the lands and had proceeded to state that the revision petitioners were only entitled to an injunction with reference to the three Tiled houses and the same has been confirmed by the learned Subordinate Judge, Bhavani in C.M.A.No.06/2011, which was moved by the revision petitioner herein. Challenging the said order,

revision petitioners are before this Court.

5 Heard counsel on either side.

6 The documents that have been filed on the side of the revision petitioners would show that the revision petitioners had been supplying sugarcane to the Sakthi Sugars Mills for a very long period of time and the survey number shown in the order relates to the suit property. Rent receipts have also been produced by the revision petitioner.

7 Per contra, the respondents have produced the documents subsequent to their inheriting the properties. Considering the above, this Court is of the opinion that the Courts below ought to have granted an order on status-quo in respect of the entire suit properties and considering the above, the order is modified and there shall be an order of status-quo in respect of the entire suit property inclusive of the three Tiled houses. It is also informed by the learned counsel that the suit is ready for trial and hence, the Principal First Additional District Munsif is directed to dispose of O.S.No. 151 of 2011 with in a period of two months from the date of receipt of the above. The lower Court shall proceed to dispose of the suit totally uninfluenced by any observation made by this Court in the above revision.

8 In the result the Civil Revision Petition is allowed and modified. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Court of Bhavani,
Erode District.

2.The Principal District Munsif Court,
Bhavani, Erode District.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No. 21596

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No. 21609

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PPA(CO)
GN(22/04/2019)