

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD).No.1359 of 2019

and

C.M.P.No.8863 of 2019

1.Saraswathi

2.Ramesh Kumar

..Petitioners/Defendants

Vs

Ranjani

..Respondent/Plaintiff

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.1613 of 2018 in O.S.No. 1025 of 2012, dated 20.12.2018, on the file of the learned Principal Subordinate Judge, Coimbatore.

For Petitioners : Mr.C.Deivasigamani

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No. 1613 of 2018 in O.S.No. 1025 of 2012, by the learned Principal Subordinate Judge, Coimbatore, by which order an application filed by the revision petitioners/defendants for summoning the Tahsidlar and Sub Registrar, Sulur has been dismissed.

of the Civil Revision Petition are as follows:

The respondent/plaintiff had filed a suit for bare injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property. The Plaintiff would contend that the property originally belonged to one Ganapathy Gounder, who had sold a portion of property to one Jawaharlal & Company in the year 1994 and with reference to the remaining portion, the said Ganapathy Gounder had decided to enter into a Sale Deed, for which he had executed Power of Attorney in favour of one Ravi. The said Jawaharlal and Company had also executed Power of Attorney in favour of Ravi, with regard to the portion purchased by them. On 27.05.2011, the plaintiff had purchased the entire property from the power of attorney holders and the possession was also handed over to the plaintiff on the very same day.

3 The plaintiff would submit that National Highways Department has proposed to lay highways in Item-B of the suit schedule properties, for which Government has to pay compensation for land acquisition and the plaintiff submits that the defendants who were strangers to the suit properties attempted to trespass into the property on 01.02.2012 and the Police complaint has also been lodged by the plaintiff. Thereafter, once again attempt was made

and that constrained the plaintiff to file the suit in question. The first defendant had filed a written statement, which was adopted by the second defendant in which, it is stated that they are the legal heirs of the said Ganapathy Gounder and that the plaintiff had created false documents to usurp the property.

4 Apart from this statement, no other claim has been made by the revision petitioners/defendants. When the matter was pending for trial, the revision petitioners/defendants have come forward with an application in I.A.No. 1613 of 2018 (which is the subject matter of the revision petitioner) for summoning Tahsidlar and the Sub Registrar and the only reason given for summoning the said authorities is that they have come to know that the suit land is Panchami land.

5 The respondent/plaintiff had filed counter refuting the claim of the revision petitioners/defendants that the lands in question were Panchami lands and the learned Principal Subordinate Judge, Coimbatore, after hearing both parties dismissed the application stating that there is no prima facie documents provided before this Court to show that the lands in question were Panchami lands. Challenging the said order, revision petitioners/defendants is before this Court.

6 Heard Mr.C.Deivasigamani, learned counsel appearing on behalf of the revision petitioner.

7 Mr.C.Deivasigamani, learned counsel appearing on behalf of the revision petitioners would draw the attention of this Court to the Sale Deeds filed in the typed set of papers [both the documents have not been filed before the Trial Court] to show that parties to the documents are Harijans and therefore, the lands are presumed to be Panchami lands. This Court is unable to accept the contentions of the revision petitioner, particularly when no where in the written statement had they pleaded that the land in question is Panchami lands and further there is no documents for showing the nature of the property. I do not find any infirmity in the order passed by the learned Principal Subordinate Judge, Coimbatore.

8 In the result, the Civil Revision Petition stands dismissed and the order passed in I.A.No.1613 of 2018 in O.S.No. 1025 of 2012, on the file of the learned Principal Subordinate Judge, Coimbatore, dated 20.12.2018, stands confirmed. No costs. Consequently, connected miscellaneous petition is also closed.

10.04.2019

dua

P.T.ASHA, J.

dua

Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

To

The Principal Subordinate Judge,
Coimbatore.

CRP.(PD).No.1359 of 2019
and
C.M.P.No.8863 of 2019



WEB COPY

10.04.2019