

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(PD).No.2350 of 2014
and
C.M.P.No.16837 of 2016

Venkatesalu

... Petitioner

Vs.

1.Kondaiah
2.Krishnaiah
3.K.K.Babu
4.K.Narayudu

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree dated 07.02.2014 passed in I.A.No.1094 of 2014 in O.S.No.118 of 2010 on the file of District Munsif Court at Tiruttani.

For Petitioner : M/s.S.A.Udayakumari

For Respondents : Mr.A.K.Raghavalu

ORDER

The 1st and 2nd respondent herein had filed O.S.No.118 of 2010 before the District Munsif Court, Tiruttani and prayed for declaration of title and for a permanent injunction to restrain the 3rd and 4th respondents herein from

interfering with peaceful possession and enjoyment of the following suit property:-

“Thiruvallur District, Tiruttani Taluk, Beerakuppam

Village, K.G.Kandigai Firka,

1.In Survey No.110/30, extent 0.12 cents.

2.In Survey No.110/16, extent 0.65 cents.

3.In Survey No.110/14, halfa share.

Out of 0.19 cents, including 5 H.P.Motor and Electric service connection.”

2. In the said suit, the petitioner herein filed I.A.No.1094 of 2014 to implead himself as the third defendant.

3. The said application was resisted by the 1st and 2nd respondent herein on the ground that the petitioner's mother had already filed O.S.No.196 of 2010 for declaration of title and for a permanent injunction in respect of the following property as hereunder:-

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Thiruvallur District, R.K.Pet, Sub District, Tiruttani

Taluk Sub District, Cherukkanoor Firka, K.G.Kandigai

Village Accounts in Dry Survey No.110/20

“To the East of Krishnama Naidu and Ethirajulu Naidu's Land”

“To the West of 1st Defendant's Land:

“To the South of well in S.No.110/7:

“To the North of the Plaintiff's Land “

and within these boundaries 0.24 cents out of 1.17 cents. The Source of irrigation is 1/4th share in the well in S.No.110/17.

4. The said application was dismissed by the District Munsif Court, Tiruttani vide the impugned order. The petitioner claimed title over 0.24 cents out of 1.17 cents in the Item No.2 of the O.S.No.118 of 2013.

5. In O.S.No.1969 of 2010 also the petitioner had sought to implead himself as the second plaintiff, which came to be dismissed by a separate order dated 03.03.2014 in I.A.No.1093 of 2010 in O.S.No.196 of 2010.

6. Against the order in I.A.No.1093 of 2010, the petitioner had filed C.R.P.No.2419 of 2014. The said C.R.P was withdrawn by the petitioner.

7. Thereafter, a fresh suit has been filed vide O.S.No.1 of 2018 by the petitioner herein before District Munsif Court, Tiruttani, wherein relief has been sought against the respondents 1, 3 , 4 and the legal heirs of the 2nd

respondent as the 2nd respondent P.Krishnaiah has since deceased. The above suit has been filed for a declaration and permanent injunction in respect of the following property as hereunder:-

“Thiruvallur District, R.K.Pet, Sub-District, Tiruttani Taluk, Sub-District, Cherukkanoor Firka, K.G.Kandigai Village, Accounts in Dry Survey No.110/20.

“To the East of Krishnama Naidu and Ethirajulu Nadidu's Land”

“To the West of 1st defendant's Land”

“To the South of well in S.No.110/17”

“To the North of the Plaintiff's Land”

and within these boundaries 0.24 cents out of 1.17cents.

The source of irrigation is 1/4th share in the well in S.No.110/17.”

8. Thus, it is clear that the petitioner's mother has claimed rights over the properties to the extent of 0.24 cents out of 1.17 cents in O.S.No.196 of 2010 in respect of the property mentioned therein. Petitioner is claiming right over the same property in O.S.No.1 of 2010. The 1st and 2nd respondents on the other hand are claiming right over a totally different property though in the same location.

9. There is no commonality between the properties that are subject to the matter of O.S.No.118 of 2010 filed by the 1st and 2nd respondents herein and the suit filed by the petitioner's mother vide O.S.No.196 of 2010 before the District Munsif Court and the suit filed by the petitioner vide O.S.No.1 of 2018 before the Sub Court, Tiruttani.

10. It is clear that the applicants attempt to implead himself as 2nd plaintiff in O.S.No.196 of 2010 and implead himself as 3rd defendant in O.S.No.118 of 2010 was nothing but a ploy to delay the proceeding.

11. There is no merit on the Civil Revision Petition filed by the petitioner. Consequently, I find no merits in the Civil Revision Petition.

12. Therefore, the Civil Revision petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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14.02.2019

Index :Yes/No
Internet :Yes/No
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C.SARAVANAN,J.

Jen/kkd

To

1.The District Munsif Court,
Tiruttani.

2.The Sub Court,
Tiruttani



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