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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.Nos.4226 & 3913 of 2019

and

C.M.P.Nos.27572 & 25833 of 2019

1. Dhamodarn
2. Sivakumar
3. Rajaammal

.. Petitioners in both CRPs/
Plaintiffs

Vs.

1. K.Sivakumar
2. O.Kamala
3. V.Sangameswaran
4. C.Mohanraj
5. Jeyanthi
6. P.Kavitha
7. G.Saravanan
8. S.Chinnaraj
9. C.Mallika
10. K.Bhuvaneswari
11. S.Kandhamani
12. S.Mohanasundaram
13. M.Sasikala
14. G.Alagammal
15. V.Santhi
16. N.Kesavan

.. Respondents in both CRPs/
Defendants

Prayer: Civil Revision Petitions have been filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 15.10.2019 and 07.03.2019 made in I.A.No.2 of 2019 and and I.A.No.1 of 2019 respectively in O.S.No.42 of 2006 on the file of the learned Principal District Munsif, Tiruchengode.

For Petitioners : Mr.R.Marudhachalamurthy

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COMMON ORDER

Revisions in C.R.P.Nos.4226 and 3913 of 2019, have been filed against the orders dismissing the petitioners' applications filed in I.A.Nos.2 and 1 of 2019 respectively in O.S.No.42 of 2006.

2. The petitioners are the plaintiffs who filed the suit in O.S.No.42 of 2006, for declaration to declare that the consent letter dated 27.02.2002, was obtained by the first defendant by fraud and misrepresentation and so it is invalid in law and also for a permanent injunction restraining the defendants from interfering with the same and also from encumbering the suit property. The suit has been filed in the year 2006.

3. Earlier, the petitioners filed an application in I.A.No.1 of 2019 in O.S.No.42 of 2006 to call for the Village Administrative Officer (VAO) to mark the adangal to prove their possession. The said application was dismissed and the petitioners filed C.R.P.No.3913 of 2019, challenging the same. Thereafter, another application in I.A.No.2 of 2019 has been filed under Rule 76 of Civil Rules of Practice seeking a direction to the Tahsildar, Komarapalayam, to issue certified copies of adangal extracts. The said application also came to be dismissed by the trial Court and against the said order, petitioners have filed C.R.P.No.4226 of 2019.

4. According to the first defendant he obtained a decree in a suit for specific performance against the father of the plaintiffs and based on that, he sold a portion of the suit property to the defendants 2 to 15 after laying out the suit property. According to the plaintiffs they are still cultivating the suit property and have also raised crops. In order to prove their possession, they want summons to be issued to the VAO, Komarapalayam Amani Village. The trial Court dismissed the said application.

5. Subsequently, the petitioners filed another application seeking a Court certificate to them directing the Tahsildar, Komarapalayam, to issue certified copies of adangal extracts pertaining to the suit property. According to the petitioners, adangal extracts is a crucial document and they cannot be denied an opportunity to prove their possession. The trial Court however dismissed the said application also.

6. The suit is pending from the year 2006. Now, the trial has commenced and two witnesses were examined on the side of the plaintiffs and during the course of the evidence of P.W.3,



present applications have been filed. In the application for issuance of summons to the VAO, the trial Court has held that the petitioners have to establish their possession in the suit property on their own records and documents and they could not collect the materials by examining the official witnesses like VAO and dismissed the said application. The other application filed under Rule 76 of the Civil Rules of Practice was also dismissed by the trial Court stating that whether the petitioner is cultivating the land or not is an issue in the suit and the plaintiffs have to prove on what basis they are in possession of the suit property and there is no necessity to issue Court certificate to the Tahsildar to produce the records.

7. I have heard the learned counsel appearing for the petitioners and also perused the records carefully.

8. The suit is pending from the year 2006 i.e., for more than 13 years. If at all the petitioners are really interested in proceeding further with their case, they should have properly obtained copies of the adangal extracts and it is their duty to prove their possession by filing necessary documents including adangal extracts. Having kept quite for more than 13 years and when the matter is listed for trial and after evidence of two witnesses were over on their side, they come out with the present applications with a view to drag on the suit, which has been pending for more than 13 years. The trial Court after considering all these aspects, dismissed the said applications. I do not find any illegality or irregularity in the same as the trial Court has rightly dismissed the said applications. There is no merit in the revisions and the same are liable to be dismissed.

9. In the result, the civil revision petitions are dismissed and the fair and decreetal orders of the Court below, impugned in these revision petitions, are hereby confirmed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

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To

The Principal District Munsif,
Tiruchengode.

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