

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM

THE HONOURABLE MRS.JUSTICE P.T.ASHA

C.R.P.No.3177 of 2018

and

C.M.P.No.18197 of 2018

1. Sudarsanam
2. Ananthasayanam
3. Komala
4. Malliga
5. Suguna
6. Thukkaram
7. Sriramulu
8. Balakrishnan
9. Varadarajulu
10. Jayalakshmi
11. Jamuna
12. Venkatakrishnan
13. Jayakumar
14. Lalitha
15. Gopinath
16. G.S.C. Bose
17. Santha
18. Janaki
19. Revathi
20. Chittibabu
21. Perumal
22. Prabhavathi
(Petitioners 1 to 15, and
17 to 22 rep by their Power of
Attorney Mr.G.S.C Bose, 16th
Petitioner)

... Petitioners / Plaintiffs

Vs.

State of Tamil Nadu
Rep. by its Collector of Kancheepuram
Collectorate at Kancheepuram
Kancheepuram 631 601.

... Respondent / defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 07.06.2018 in I.A.No.508 of 2017 in O.S.No.92 of 2016 passed by the learned Subordinate Judge, Madurantagam.

For Petitioners : Mr.P.Mohamed Ansare

For Respondents : Mr.S.Jaganathan
Government Advocate

O R D E R

The above Civil Revision Petition is filed by the petitioners/ plaintiffs challenging the order dated 07.06.2018 in I.A.No.508 of 2017 in O.S.No.92 of 2016 passed by the learned Subordinate Judge, Madurantagam, wherein the learned Judge has allowed the petition filed by the respondent/State, setting aside the exparte order that has been passed against them in O.S.No.92 of 2016 on 04.08.2015.

2. The main contest to the above order is the conduct of the Government Officials, in erasing the attestation that has been affixed by the Revenue Divisional Officer, Tambaram, in the written statement, which has been filed in the form of affidavit of the District Collector, Kancheepuram.

3. The learned counsel for the petitioners/plaintiffs has brought to the attention of this Court the erasion that has been done in the written statement/affidavit at page Nos. 1, 2, 3, 4 and 5. It is also brought to the notice of this Court that after erasing the signature and seal of the Revenue Divisional Officer, a learned counsel had signed in the said affidavit, pre-dating the same, but the written statement/affidavit is said to have been filed on 08.11.2017.

4. As pointed out by the learned counsel for the petitioners, this is an highly deplorable act on the part of the Government Advocates, particularly when they are appearing on the side of the Government. The act amounts to tampering of an affidavit. It is also seen that the learned counsel, who has later signed in the affidavit, has submitted that she has attested the signature of the District Collector in the written statement without seeing the signature being affixed by the District Collector in the written statement. As per Rule 33 of Civil Rules of Practice an affidavit intended to be used in judicial proceedings should be sworn before an advocate. The attestation of signature of the defendant in the written statement is not mandatory. It is enough if the contents of the written statement are verified by the defendant para wise. The document though styled as a written statement is in the form of an affidavit. However, the learned counsel for the petitioners has been fair to say that the order can be upheld, provided, the

defendant may be directed to file a fresh written statement in the proper form.

5.In view of the above, this civil revision petition is dismissed, with a direction to the respondent/State to file a written statement on or before 27.02.2019 and thereafter, the learned Judge can proceed with the matter further, in accordance with law. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge,
Madurantagam.

+1cc to Mr.P.Mohamed Ansare, Advocate sr.10045

C.R.P.No.3177 of 2018
and
C.M.P.No.18197 of 2018

srg 25/02/2019



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