BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2018

CORAM

**THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM**

C.R.P.(PD) (MD) No.338 of 2019

1.V.Eswaran
2.E.Maheswaran
3.E.Sathesskumar : Petitioners/Petitioner/Plaintiff

Vs.

1.S.Sandeep
2.S.Rathinam
3.C.Pounmani
4.C.Vijayaraja

5.The Village Administrative Officer,
Office of the Village Administrative Office,
Near MLA Office, Theni,
Theni District.

6.The Commissioner,
Theni Allinagaram Municipality,
Theni District.

7.The Assistant Commissioner Commercial Tax(1)
Treasury Complex Madurai Road,
Theni District.

8.The Executive Engineer (Distribution) Tangedco
NRT Nagar Main Road Theni,
Theni District.

9.The Tahsildar,
Office of Thasildhar,
Ullavarsandai Road, Theni,
Theni District.

10.The Revenue Divisional Officer,
Office of Revenue Divisional Office,
Thasildar Nagar, Thamaraikulam,
Periyakulam,
Theni District. :Respondents/Respondents/Defendants

PRAYER:- Civil Revision Petition is filed, under Section 227 of the Civil Procedure Code to pass an order directing the learned District Muncif Court, Theni, to dispose of the I.A.No.187 of 2018 in O.S.No.11 of 2018 on the file of the same as expeditiously with the time stipulated by this Court.

For Petitioners : Mr.V.Eswaran

**O R D E R**

This civil revision petition is filed for a direction to the learned District Munsif Court, Theni to dispose of I.A.No.187 of 2018 in O.S.No.11 of 2018.

2.The petitioner herein has contended that Mrs.S.Chinnathai filed the suit for partition in O.S.No.71 of 1985 on the file of the Subordinate Judge, Periyakulam claiming partition of her share 'A' and 'B' Schedule suit properties against her in-laws. After an elaborate trial, the Court below decreed the suit by holding that the said Mrs.S.Chinnathai and the other defendants were entitled to $1/7^{th}$ share to the 'A' schedule property alone and dismissed the suit in respect of the 'B' Schedule Property by holding that the suit 'B' schedule property was the self acquired property of the first defendant. Aggrieved over the same, the fourth defendant Mr.S.V.Swaminathan, preferred an appeal in A.S.No.57 of 1993 before the Principal District Court, Madurai. During pendency of the said Appeal, the Cross Appeal has also been filed praying to decree the suit. The Court below, after considering the material facts, dismissed the appeal in A.S.No.57 of 1993 and allowed the Cross Appeal. Once again, the fourth defendant Mr.S.V.Swaminathan filed second appeal in S.A.No.1773 of 1996. In the second appeal, the judgment and decree of the Principal District Munsif Court, Madurai was confirmed by which, the defendants 2 to 6 were entitled to 1/6 share each in the suit 'A and B' schedule properties.

3.After dismissal of the second appeal, the petitioners filed O.S.No.11 of 2018 before the learned Munsif Court, Theni against the respondents 1 to 4 to declare documents-C3/817822, Property Tax-29028 as null and void.

4.The petitioners herein claiming right over the suit properties by way of Will executed by his wife Saraswathy who is also entitled to 1/6 share in the said property. The said property is a joint family property, in which, first respondent obtained E.B Connection and Building Plan in favour of him using fraudulent documents in respect of Survey No.1695/1A. There was a property tax imposed by the Commissioner of the Municipality and also the GST has been registered for that property whereas, the tin number was furnished by the respondents and there is also a construction made by way of collusion among the respondents. Hence, the petitioners herein who is claiming 1/6 share in the suit property, seeking for the relief of mandatory injunction in I.A.No.187 of 2018 against the respondents 6, 7 and 8. Now, the petitioner has filed this civil revision petition for speedy disposal of I.A.No.187 of 2018.

5.Heard the learned counsel appearing for the petitioners.

6.The petitioners contended that he is entitled for 1/6 share of the suit property as per the decree passed in the second appeal and he is also claiming right over the suit property by way of Will which was executed by his wife one Saraswathy who was the defendant in the suit.

7.It is the grievance of the petitioners that though no property tax has been paid and no building in that place, the respondents issued GST and Tin Number for that property. The property tax was also imposed by the respondents. The act of the respondents in imposing GST and Tin Number for the said property is not sustainable and it is also an undivided property. Since the property is not yet divided by needs and bounds and it still remains undivided property, the action of the respondents in issuing the certificates for the said properties, has to be restrained. Hence, the petitioners sought for earlier disposal of I.A.No.187 of 2018.

8.Considering the relief sought for by the petitioners and considering their right over the suit property which is an undivided joint family property, the action of the respondents is an unwarranted one. Hence, in view of the grievance expressed by the petitioners, the District Munsif Court, Theni is directed to dispose of I.A.No.187 of 2018, after putting all the interested parties and other concerned officials on notice, at the earliest preferably, within a period of three months from the date of receipt of a copy of this order.

9.This Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar(CS)

rmi

To
The District Muncif Court, Theni.

+1CC TO MR.V.ESWARAN, party in person Sr. No. 48433

C.R.P.(PD) (MD) No.338 of 2019

TR (16.04.2019) 3P 3C