



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12.04.2019
DELIVERED ON : 30.04.2019

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THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.2427 of 2015
and
M.P. (MD) No.1 of 2015

1.N.Kandasamy
2.Kaliammal
3.K.Natrayan

... Petitioners/Petitioners/Defendants

Vs.

1.M.A.M.Ramasamy (Died)
2.Kumararani
3.M.A.M.R.Muthiah

... Respondents

(3rd respondent is brought on record as the legal heirs of the deceased 1st respondent vide Court order dated 21.02.2017 made in C.M.P. (MD) Nos.12482 and 12483 of 2016 in C.R.P. (MD) No.2427 of 2015 by VMVJ)

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the order dated 03.08.2015 passed in I.A.No.330 of 2014 in O.S.No.122 of 2010 on the file of the learned Additional Sub Judge, Karur.

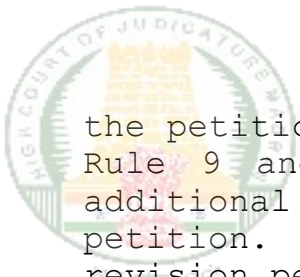
For Petitioners : Mr.S.Anand Chandrasekar
For Respondents 2 and 3 : Mr.S.Jaya Prakash
For 1st Respondent : Died

ORDER

Heard Mr.S.Anand Chandrasekar, learned counsel appearing for the petitioners and Mr.S.Jaya Prakash, learned counsel appearing for the respondents 2 and 3.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.330 of 2014 in O.S.No.122 of 2010 dated 03.08.2015 on the file of the learned Additional Sub Judge, Karur.

3.The petitioners herein are the defendants and the respondents 1 and 2 are the plaintiffs and the third respondent is the legal heir of the first respondent. The respondents 1 and 2 have filed a suit in O.S.No.122 of 2010 seeking a sum of Rs.3,69,900/- and for a permanent injunction against the defendants. In the suit,



the petitioners filed a petition in I.A.No.330 of 2014 under Order 8 Rule 9 and under 151 of C.P.C., seeking permission to file an additional written statement. The trial Court dismissed the petition. Against which, the petitioners have preferred this revision petition.

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4. On the side of the petitioners, it is stated that one Raja Sri Annamalai Chettiar is the original owner of the suit property and he developed suit property into house sites and rented the vacant house sites to various persons. On 15.07.1940, Raja Annamalai Chettiar leased out the house site under a registered lease deed in favour of one Sundaresa Iyar of Karur. On 07.08.1943, the said Sundaresa Iyar handed over the possession of the house sites to one Manikkavasagam. The said Manikkavasagam carried out some construction work and sold the construction to Ramasamy Gounder and leased the vacant site to him. The said Ramasamy Gounder leased out his tenancy right to Namachivaya Gounder and his wife Visalakshi ammal on 27.04.1977. After the demise of Namachivaya Gounder and Visalakshi ammal, one Selvanayagi, Easwari and Indirani constructed houses in the suit property. On 21.03.1985, Easwari and Indirani relinquished their right to their sister Selvanayagi who in turn sold out the property to Santhi.

5. On the side of the petitioners, it is further stated that when the written statement was prepared, the right of adverse possession by the said Santhi is left unmentioned. At this stage, the case was taken up for trial. Proof affidavit on the side of the plaintiffs was filed. The defendants have to file an additional written statement regarding the right of the defendants and right of the predecessors of Santhi. No prejudice will be caused to other side on allowing this petition.

6. On the side of the respondents, it is stated that the suit was filed during March 2002 and the trial has commenced on 04.06.2014. Sufficient opportunity was given to the defendants for cross examination on 13.06.2014, 24.06.2014, 03.07.2014 and 15.07.2014 but the defendants failed to cross examine the plaintiffs. To drag on the case, the defendants filed this petition. Additional written statement cannot be filed after the commencement of the trial and prayed the petition to be dismissed.

7. A perusal of the records reveals that the suit was filed only for the rental arrears and not for declaration of title. Already trial has commenced. There is every chance for the additional written statement to change the character of the main suit. The petitioners are at liberty to file a fresh suit claiming adverse possession, if they are so advised. The suit is pending from the year 2010 and allowing this petition will cause further delay in the proceedings of the case.

8. In the above circumstances, there is nothing sufficient enough to interfere in the order passed by the trial Court. This



Civil Revision Petition is **dismissed** by confirming the order passed in I.A.No.330 of 2014 in O.S.No.122 of 2010 dated 03.08.2015 on the file of the learned Additional Sub Judge, Karur. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

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sd/
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Additional Sub Judge,
Karur

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, (SR-64618[F] dated
30/04/2019)

C.R.P. (PD) (MD) No.2427 of 2015
30.04.2019

mrn

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