



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .No.103 of 2019

and

C.M.P. (MD) .No.513 of 2019

Bipin K.Sheth
represented through his power agent
A.M.Srinivasan.

... Petitioner/Petitioner/
Plaintiff

Vs.

1.A.M.Thirumal

2.The District Collector,
Collectorate,
Dindigul.

3.The District Revenue Officer,
Collectorate,
Dindigul.

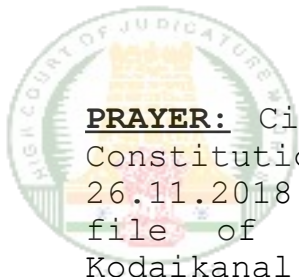
4.The Revenue Divisional Officer,
RDO's Office,
Kodaikanal,
Dindigul District.

5.The Tahsildar,
Taluk Office,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

6.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

7.The Executive Officer,
Vilpatti Panchayat Office,
Kodaikanal,
Dindigul District.

... Respondents



PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 26.11.2018 made in I.A.No.373 of 2018 in O.S.No.78 of 1999 on the file of the District Munsif cum Judicial Magistrate Court, Kodaikanal.

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For Petitioner : Mr.A.Arumugam for
M/s. Ajmal Associates

For R1 : Mr.I.Sam Jegan

For R2 to R5 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

O R D E R

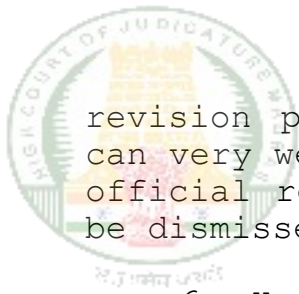
The Civil Revision Petition has been filed challenging the order passed by the District Munsif cum Judicial Magistrate Court, Kodaikanal in I.A.No.373 of 2018 in O.S.No.78 of 1999, dated 26.11.2018.

2. The revision petitioner herein is the plaintiff and he has filed an application in I.A.No.373 of 2018 to permit him to implead the official respondents 2 to 7 as necessary and appropriate party in the suit, due to the reason that the first defendant in the suit filed a counter statement disputing the ownership of the plaintiff. According to the first defendant, the suit property belongs to the Government. The Court below, after hearing both the parties, dismissed the application stating that it is for the plaintiff to prove his case by adducing appropriate evidences.

3. The case of the revision petitioner is that it is just and necessary to implead the official respondents 2 to 7, in order to establish the ownership of the plaintiff. Further, if the Court below permits the revision petitioner to implead the official respondents 2 to 7, he will prove the ownership of the property.

4. On the other hand, the learned counsel appearing for the first respondent would submit that it is for the plaintiff to prove his case whether he is the owner of the property or not. But ignoring that aspect, the revision petitioner/plaintiff has filed an application to permit him to implead the official respondents 2 to 7, which is totally unwarranted and he is trying to prove his case through the respondents 2 to 7 which is not permissible. The Court below has rightly dismissed the application and there is no need to interfere with the order passed by the Court below.

5. The learned Additional Government Pleader appearing for the official respondents would submit that it is not necessary to implead the respondents 2 to 7 in the present suit and if the



revision petitioner wants to examine the official respondents, he can very well examine them by issuing summons for examination of the official respondents. Therefore, the revision petition is liable to be dismissed.

6. Heard the learned counsel for the petitioner, the learned counsel for the first respondent, the learned Additional Government Pleader appearing for the respondents 2 to 7 and perused the materials available on record.

7. Admittedly, the suit in O.S.No.78 of 1999 was filed by the revision petitioner herein for permanent injunction restraining the first respondent from interfering with the peaceful possession of the revision petitioner. According to the revision petitioner, he is in possession of the suit property and the first respondent is interfering with the same. In the suit, he has categorically mentioned that the plaintiff has purchased the suit property by virtue of the sale deed, dated 21.03.1995 and the same was assessed to Urban Land Tax on 23.05.1995, the Tahsildar, Kodaikanal also issued separate Patta in favour of the plaintiff, the Village Administrative Officer of Vilpatti has issued ownership and income certificate in favour of the plaintiff. When the first respondent/defendant trespassed into the suit property, he has also lodged a complaint against the defendant before the Kodaikanal Police Station. When that being the case, it is for the revision petitioner/plaintiff to establish his title to the property as well as the possession by way of documentary evidence and by examining the witnesses and ignoring that aspect, now he has filed an application to permit him to implead the official respondents 2 to 7, which is unwarranted. If at all if the private respondent made any averment in the written statement, it is the duty of the revision petitioner/plaintiff to confute the same. But, without confuting the same, now he has come forward to file an application before the Court below for impleading the official respondents, which is totally unwarranted. If at all if they intend to examine the official respondents with regard to the validity of the issuance of Patta and the possession of the property, it is for the revision petitioner to examine the official respondents as witnesses and the Court below has rightly dismissed the application. There is no infirmity in the order passed by the District Munsif cum Judicial Magistrate Court, Kodaikanal in I.A.No.373 of 2018 in O.S.No.78 of 1999, dated 26.11.2018 and the Civil Revision Petition is dismissed No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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To

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Kodaikanal.

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Dindigul District.

7.The Executive Officer,
Vilpatti Panchayat Office,
Kodaikanal,
Dindigul District.

+1 CC to M/s.I.SAM JEGAN, Advocate (SR-93704[F] dated 22/10/2019)

C.R.P. (PD) . (MD) .No.103 of 2019
21.10.2019

akv

JMN(02.12.2019) 4P : 9C