



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.1204 of 2019

and

C.M.P. (MD)No.6743 of 2019

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1.Mithar Mohaideen

2.Micheal Ammal ...Petitioners 1 and 2 /Defendants 1 and 3/
Petitioners

Vs.

Rajas Educational and Charitable

Trust through its

Vice Chairman A.Jesus Raja

Vadakkankulam,

Radhapuram Taluk,

Tirunelveli District.

... Respondent /Plaintiff/Respondent

(The Second Defendant Diraviyaraj, died during the pendency of the suit and his wife Micheal Ammal was brought on record as his legal heir. Though the Second Defendant, Diraviyarajm was shown in the cause title of the I.A., he is not shown as party to this CRP as he is dead)

PRAYER: Civil Revision Petition is filed, under Under Article 227 of the Constitution of India, against the order dated 24.06.2019 in I.A.No.4 of 2019 in O.S.No.33 of 2013 on the file of the Subordinate Judge, Valliyoor, Tirunelveli District.

For Petitioners : Mr.Haja Mohideen Gisthi

For Respondent : No appearance

O R D E R

This Civil Revision Petition has been filed against the order, dated 24.06.2019 passed in I.A.No.5 of 2019 in O.S.No.33 of 2013 by the learned Subordinate Judge, Valliyoor, Tirunelveli District.

2.Heard the learned counsel appearing for the petitioners and perused the materials available on record. Though notice was served on the respondent and his name is also printed in the cause list, none appeared.



3.The learned counsel for the revision petitioners would contend that I.A.No.4 of 2019 in O.S.No.33 of 2013 was filed for the purpose of examination of Radhapuram Tahsildar as defence witness. Further he would contend that the Vice Chairman of the respondent/plaintiff had been examined as P.W.1 and during cross examination, he admitted that the vendor's signature is not found in the sale deed, dated 28.02.1990, under which the trust claims to have purchased the suit property and hence, the evidence of the Tahsildhar, Radhapuram, who issued computerised patta to the plaintiff assumes great importance and thereafter only, the said officer can explain the truth and genuineness of the computerised patta, who applied for transfer of patta, whether proper notice was issued to the second defendant before passing orders for transfer of patta to the plaintiff and if the transfer of patta in favour of the respondent / plaintiff was done, after complying with all the statutory procedures.

4.The learned counsel for the revision petitioner would further contend that for the said I.A.No.4 of 2019 in O.S.No.33 of 2013, the learned counsel for the respondent / plaintiff has also made an endorsement that they have no objection for allowing the said application. However, the Court below without considering all these facts, simply rejected the said application stating that the revision petitioner herein failed to substantiate their stand for the requirement of the Tahsildar to be examined as defence witness.

5.Considering the submissions made by the learned counsel for the revision petitioner and also considering the endorsement made by the respondent / plaintiff, this Court is of the view that the Vice Chairman of the respondent / plaintiff had examined as P.W.1 and during the examination, when the said Vice Chairman admitted that the vendor's signature is not found in the sale deed, dated 28.02.1990, under which, the trust is said to have purchased the suit property, this Court is of the opinion that the evidence of the Tahsildar, Radhapuram, who issued Computerised patta, definitely will assume great importance, since the said officer can explain the truth of the genuineness of the computerised patta. However, the Court below without appreciating all these facts, had dismissed the said application. Hence, the order of the court below made in I.A.No.4 of 2019 in O.S.No.33 of 2013 on the file of the Subordinate Judge, Valliyoor, Tirunelveli District, is liable to be set aside. Accordingly, the same is set aside. The petitioners / defendants are permitted to examine the Tahsildar, Radhapuram, as one of the defence witness. Since the suit is of the year 2013, the trial Court is directed to dispose of the suit in O.S.No.33 of 2013, within a period of six months from the date of receipt of a copy of this order.



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6.In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

/ True Copy /

Sub Assistant Registrar (CS-)

To
The Subordinate Judge,
Valliyoor, Tirunelveli District.

+1 CC to M/s.HAJA MOHIDEEN, Advocate
(SR-86833[F] dated 16/09/2019)

**Order made in
C.R.P (MD) No.1204 of 2019
13.09.2019**

rj2
ES/01.10.2019/3P/3C