



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM:

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THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.R.P(MD) (PD)No.2284 of 2019

and

C.M.P. (MD)No.11885 of 2019

Pon.Thangasamy (Died) ,
T.Rajamani Ammal (Died)

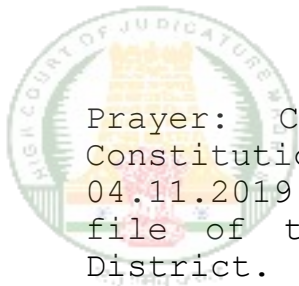
- 1.Se Jeyanthi
2. Se.Madhinithi Pandian,
3. Se.Nagasudha,
4. Rakku,
5. Chellapandian,
6. Mohanraj,

... Petitioners

Vs.

1. Baskararapandian
2. Poosadurai,
3. Samydurai,
4. Nahendran,
 Veeraperumal (died)
 Velusamy (died)
5. Ilamurugan,
 Pe.Nagarajan (Died) .
6. Pe.Dhurairaj,
7. Shanmugasamy,
 Natarajan (Died) .
8. Ravichandran,
 Sesurasu (Died) .
9. Arockiasamy,
- 10.C. Savarimuthu,
- 11.A. Savarimuthu,
12. Sonaimuthu,
13. Pitchai,
14. Malaikannu,
15. Nagu,
16. Kasinathadurai,
17. Chandra,
18. Saravanan,
19. Geetha,
20. Velmurugan,
21. Vinothkannan,
22. Nirmala,
23. Jeyalakshmi

... Respondents



Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 04.11.2019 passed in I.A.No.280 of 2019 in O.S.No.59 of 2007 on the file of the learned District Munsif, Paramakudi, Ramanathapuram District.

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For Petitioners : Mr.A.Rajaram
For Respondents : Mr.M.Rajaraman

ORDER

This Civil Revision Petition is filed against the order dated 04.11.2019 passed in I.A.No.280 of 2019 in O.S.No.59 of 2007, on the file of the learned District Munsif, Paramakudi.

2. The petitioners herein are the defendants 1 to 4, 26, 27 and 30, the respondents 1 to 4 are the plaintiffs, the respondents 5 to 23 are the defendants 5, 7, 8 to 25, 29 and 31 and the 24-th respondent is the 28-th defendant in the suit. The respondents 1 to 4 herein filed a suit in O.S.No.59 of 2007 for a prayer of injunction. In that suit, the petitioners herein/ defendants 1 to 4, 26, 27 and 30 filed an application in I.A.No.280 of 2019 for a prayer to send for the documents from the Court records and to produce the same for giving evidence. The said application was dismissed by the trial Court, against which, the petitioners preferred this Civil Revision Petition.

3. Brief substance of petition in I.A.No.280 of 2019 is as follows:

P.Ws.1 and 2, in their evidence, have stated that already a case was filed regarding the suit property, but, the plaintiffs did not file those documents and the earlier case was filed before the trial Court in O.P.No.30 of 1961. The petitioners got certified copy and the same was lost in Court and hence, a criminal complaint was given. The document is available before the Court and it is just and necessary to send for the suit register from the Court record and to mark the same.

4. The brief substance of the counter filed by the respondents 1 to 6 is as follows:

4.1. Written submissions were filed and the suit was re-opened for a clarification regarding the evidence of D.W.2 and the said witness was transferred to other job and another person from the District Revenue Record was present and he deposed that the documents were already produced before the Court and that there was no other documents available. At this stage, the petitioners preferred this Petition. The petitioners have filed similar petition to send for the suit register during November 2018 and the same was returned, directing the petitioners to produce certified copies. This suit was suppressed by the petitioners and they have filed this



petition stating that they came to know about the existence of the suit register only recently and it is an abuse of process of Court and also the petition was filed only to cause delay in the proceeding of the case and hence, the petition is to be dismissed.

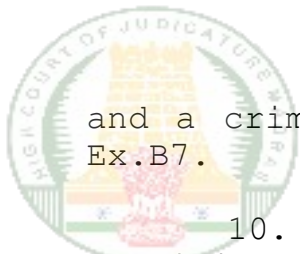
5. The trial Court after hearing both sides, dismissed the I.A.petition. Against which, the petitioners preferred this Civil Revision Petition.

6. In the revision petition, it is stated that under Section 74 of the Civil Rules of Practice, the petitioners filed I.A.petition calling for the proceedings in O.P.No.30 of 1961. It is wrong to state that there is no pleading in the written statement and the trial Court is wrong in rejecting the I.A. petition as the parties to this suit are not the parties in the earlier proceedings. The trial Court failed to consider the complaint copy regarding the missing of the document in the Court hall which was marked as Ex.B7. The trial Court failed to consider that the petitioner filed another copy application which was returned by the Registry, without valid reasons. The trial Court failed to consider that an opportunity to the petitioner to establish his case, has to be given.

7. On the side of the revision petitioners, it is stated that P.Ws.1 and 2 in their evidence had admitted that there was an earlier litigation. The documents regarding the earlier litigation is necessary to decide the case and the proceedings in O.P.No.30 of 1961 is to be marked. It is stated that the petitioners obtained certified copies and they were stolen and a complaint was lodged. To prove the case of the Revision Petitioner the original suit register is to be send for from the same Court.

8. On the side of the respondents, it is stated that the petitioners filed a similar petition and the same was returned, directing the petitioner to produce certified copies and the fact was suppressed by the petitioners. The petitioners filed this petition with false allegation that they came to know about the existence of the register only recently.

9. It is seen that the suit was filed in the year 2007 and it is pending for the past 11 years. It is stated that the suit property was mortgaged twice in the year 1920 and 1949 and the suit in O.P.No.30 of 1961 was filed for redemption of mortgage. From the plaint, it is seen that no such pleadings was raised in the suit. Even in the written statement there is no such pleadings. The case is pending for the past 11 years and the petitioners claim that they are aware of the documents only recently. It is seen that the petitioner filed a similar petition earlier and that fact was not stated in this petition. The petitioners have stated that they have already obtained certified copies of the document, but the same was lost and hence, a criminal complaint was lodged. It is stated that



and a criminal complaint was lodged. The complaint was marked as Ex.B7.

10. From the arguments of the Advocate, it is clear that the certified copies were misplaced by the Advocate and that for missing of the document, the petitioners' side Advocate, lodged a complaint, as if they were stolen from the Court and the occurrence of missing took place during the year 2008 (11.07.2008). The missing documents are only certified copies, the petitioners might have taken steps to obtain another set of certified copies, but they failed to do so.

11. Only during the month of December - 2018, the petitioners filed another copy application for getting certified copies and that petition was returned by the registry for some minor corrections. Instead of carrying out the correction and resubmitting the copy application after one year from the date of returning of the application, the petitioners filed this petition.

12. From the records, it is clear that the petitioners did not take any proper steps from the year 2008 to get certified copies. The one and only reason to file this Civil Revision Petition is to drag on the proceedings and there is no merits in this petition.

13. In the above circumstances, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

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Sub Assistant Registrar(CS)

To

1.The District Munsif,
Paramakudi, Ramanathapuram District.

2.The Section Officer, (2 Copies)
VR Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.RAJARAM, Advocate (SR-104101[F] dated 09/12/2019)

+1 CC to M/s.M.RAJARAMAN, Advocate (SR-104375[F] dated 11/12/2019)

C.R.P(MD) (PD)No.2284 of 2019

09.12.2019

Ls

<https://hccs.courts.mys.in/Case/4P-6C>