

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

CRP (NPD)No.3934 of 2015

1.Ramesh Kumar
2.Ramani

... Petitioners

Vs.

Santhana Lakshmi

.... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 20.07.2015 and made in P.No.9 of 2008 on the file of Special Deputy Collector, (Revenue Court) Nagapattinam, by allowing this Civil Revision Petition and to allow the petition in P.No.9 of 2008 on the file of Special Deputy Collector, Revenue Court, Nagapattinam.

For Petitioners ... Mr.S.Balasubramanian

For Respondent ... No appearance

O R D E R

This Civil Revision Petition has been filed by the petitioners against the dismissal of their petition in P.No.9 of 2008 by the Special Deputy Collector, (Revenue Court) Nagapattinam dated 20.07.2015.

2. The petitioners herein had filed a petition before the Special Deputy Collector (Revenue Court), Nagapattinam, in P.No.9 of 2008 under Section 3 (4) (a) of the Tamil Nadu Cultivating Tenants Protection Act, 1955, to evict the respondent herein from the petition mentioned properties.

3. The learned Special Deputy Collector (Revenue Court), Nagapattinam, by the order dated 20.07.2015, had dismissed the said petition. Feeling aggrieved, the petitioners have filed the present Civil Revision Petition.

4. Though notice was served on the respondent and her name also printed in the cause list, she has not appeared either in person or through counsel. Hence, after hearing the arguments of

the learned counsel for the petitioners and perusing the materials filed along with this petition, Order is being passed in this petition.

5. The learned counsel for the petitioners has submitted that the petition mentioned properties originally belonged to the mother of the petitioners viz, Pattu Ammal and she died on 09.08.2005 intestate leaving behind the petitioners herein as her legal heirs and hence, after the death of the said Pattu Ammal, the petitioners became the owners of the petition mentioned properties. He further submitted that inspite of repeated demands made by the petitioners, the respondent did not come forward to pay the arrears of rent and hence, the petitioners were forced to file a petition in P.No.9 of 2008 on the file of the Special Deputy Collector (Revenue Court), Nagapattinam, to evict the respondent from the petition mentioned property. He further submitted that in the said petition, after receipt of the notice, the respondent herein entered into an appearance and filed counter and additional counter admitting that the said Pattu Ammal is the owner of the property. However, she claimed that she entered into a sale agreement with the said Pattu Ammal on 13.04.1992 and subsequently, she paid the entire sale consideration to the said Pattu Ammal and hence, she became absolute owner of the said properties. But, during enquiry, she did not appear before the Revenue Court. He further submitted that during enquiry on the side of the petitioners, the second petitioner has filed a proof affidavit along with seven documents to show that the petitioners are the absolute owners of the petition mentioned property, but the learned Special Deputy Collector (Revenue Court), Nagapattinam, without considering the said document and also marking the said document as exhibits, had dismissed the said petition by the impugned order dated 20.07.2015 by saying that the petitioners have not produced any document to show that they are the owners of the said properties. He further submitted that since the respondent herself had admitted in her additional counter that the petition mentioned properties originally belonged to Pattu Ammal, Revenue Court should not have insisted the petitioners to produce documentary evidence to prove their title. He further submitted that the Revenue Court failed to consider the death certificate of Pattu Ammal and legal heir certificate which were produced by the petitioners along with the proof affidavit of the second petitioner. He further submitted that the legal heir certificate would clearly show that the petitioners are legal heirs of Pattu Ammal. He further submitted that the Revenue Court failed to consider that though the respondent had stated in the counter statement that by virtue of the sale agreement entered by her with the original owner Pattu Ammal, she became the absolute owner, to substantiate the said plea, she did not appear for enquiry. He

further submitted that without considering the said facts, the Revenue Court had dismissed the petition in P.No.9 of 2008 and therefore, he prayed to allow this Civil Revision Petition.

6. A perusal of the typed set of papers filed by the petitioners would show that the second petitioner herein had filed a proof affidavit as PW1 and examined one Anjan as PW2 and also filed 7 documents, but the Revenue Court without considering the said documents has passed the impugned order. Further, in the impugned order, the Revenue Court has not at all referred to any of the aforesaid documents and also the admission made by the respondent in her additional counter. Therefore, this Court is of the view that the matter has to be remitted back to the Revenue Court for fresh disposal after considering the documents filed by the petitioners.

7. In the result, this Civil Revision Petition is allowed. No costs. The Order passed by the Special Deputy Collector (Revenue Court), Nagapattinam, in P.No.9 of 2008 dated 20.07.2015, is set aside. The matter is remitted back to the Special Deputy Collector, (Revenue Court) Nagapattinam. The Special Deputy Collector, (Revenue Court) Nagapattinam, is directed to dispose of the said P.No.9 of 2008 after considering the documents which were filed by the petitioners along with the proof affidavit and also the averments made in the counter and additional counter filed by the respondent.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gv
To

The Special Deputy Collector,
Revenue Court,
Nagapattinam.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+2 Ccs to Mr.S.Balasubramanian, Advocate sr 37322.

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PA(CO)
SP(07/01/2021)