

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4371 of 2013
and M.P.No.1 of 2013

Pattayee Ammal .. Petitioner/Plaintiff

Vs.

1.Perumal
2.Jayalakshmi .. Respondents 1 and 2/Defendants

3.The State of Tamil Nadu
Represented by its District Collector
Erode, Erode District.

4.The Tahsildar
Bhavani Taluk
Bhavani Post
Erode District.

5.The Special Tahsildar
Natham Survey
Bhavani, Erode District. .. Respondents 3 to 5/
Proposed parties

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 21.08.2013 made in I.A.No.93 of 2011 in O.S.No.253 of 2010 on the file of the II Additional District Munsif Court, Bhavani.

For Petitioner : Ms.K.Ponmani
for Ms.Zeenath Begum
For R1 and R2 : No appearance
For R3 and R4 : Mr.Devnarenderan
Government Advocate (CS)

ORDER

The matter is heard through “Video-Conferencing”.

The Civil Revision Petition is filed against the fair and decretal order dated 21.08.2013 made in I.A.No.93 of 2011 in O.S.No.253 of 2010 on the file of the II Additional District Munsif Court, Bhavani.

2.The petitioner is the plaintiff and respondents 1 and 2 are the defendants in O.S.No.253 of 2010 on the file of the II Additional District Munsif Court, Bhavani. The petitioner filed the said suit against the

respondents 1 and 2 for declaration of title and injunction. The respondents 1 and 2 filed written statement and denied the title of the petitioner and claimed title. The petitioner filed I.A.No.93 of 2011 for impleading the respondents 3 to 5 as defendants 3 to 5. The respondents 1 and 2 opposed the said petition. The learned Judge dismissed I.A.No.93 of 2011 by order dated 21.08.2013.

3. Against the said order of dismissal dated 21.08.2013 made in I.A.No.93 of 2011, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel appearing for the petitioner contended that when there is a dispute with regard to title of the property, only the Civil Court has jurisdiction. The learned Judge has exceeded his jurisdiction in holding that the discrepancy in the patta has to be raised before the revenue authorities. The presence of proposed parties is necessary for proper adjudication of the issue in the suit and to clarify the discrepancy

crept in the revenue records at the time of re-survey proceedings and prayed for setting aside the order of the dismissal and allowing the Civil Revision Petition.

5.Though notice has been served on the respondents 1 and 2 and their names are printed in the cause list, there is no representation for them either in person or through counsel.

6.The learned Government Advocate (CS) appearing for the respondents 3 and 4 submitted that the respondents 3 and 4 are not necessary parties for deciding the issue in the suit. The petitioner has to substantiate her case by letting in evidence during the trial and prayed for dismissal of the Civil Revision Petition.

7.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 3 and 4 and perused the entire materials available on record.

8.From the materials available on record, it is seen that the petitioner filed I.A.No.93 of 2011 for impleading the respondents 3 to 5 who are revenue officials. According to the petitioner, some discrepancies have crept in in the patta during re-survey proceedings. The respondents 1 and 2, taking advantage of the discrepancies are claiming title over the suit property. Only the respondents 3 to 5 can clarify the discrepancies in the revenue records. These contentions are without merits. The petitioner can obtain copies of patta and can summon the revenue officials as witness to clarify the discrepancies if any, in the revenue records. The respondents 3 to 5 are not necessary and proper parties as defendants in the suit to decide the title of the petitioner. It is for the petitioner and the respondents 1 and 2 to prove their claim of title by letting in evidence in trial including summoning the revenue officials as witness. For the above reasons, the order of the learned Judge is not interfered with.

9.In the result, the Civil Revision Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed. No costs.

18.09.2020

Index : Yes/No
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To

The II Additional District Munsif

Bhavani.

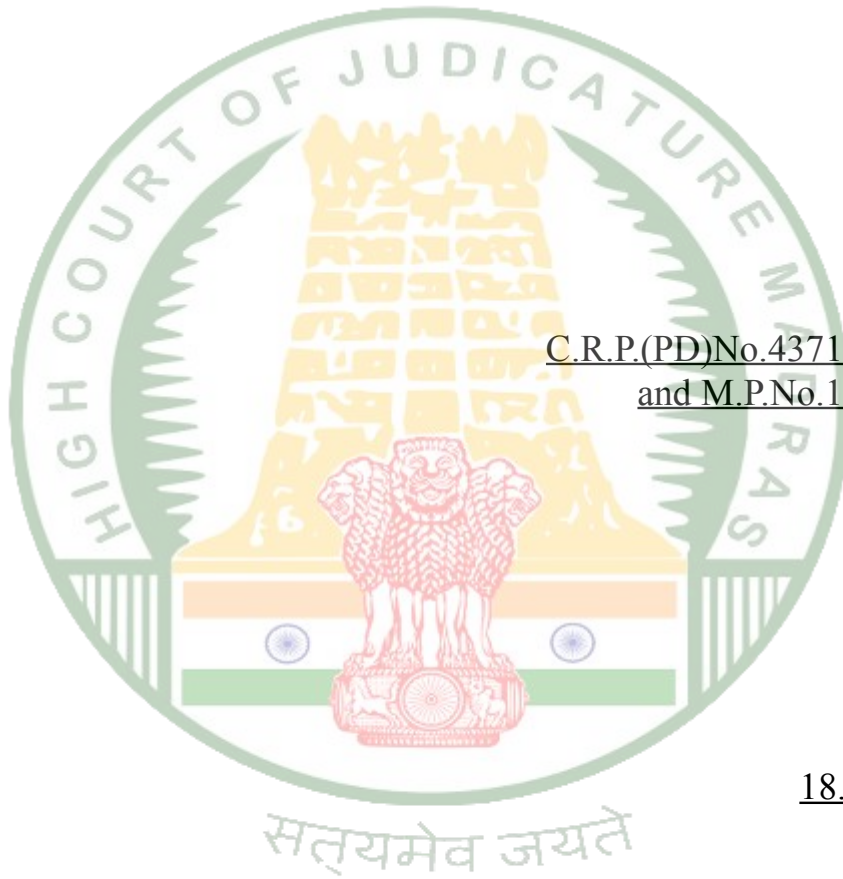


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V.M.VELUMANI, J.

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