

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No. 2870 of 2018
and
C.M.P.No. 16888 of 2018

P.Karupathal

...Petitioner

Vs.

1.A.Govindaraju
2.G.Lingamurthy

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decree order dated 26.04.2018 made in I.A.No. 573 of 2018 in O.S.No. 609 of 2010 on the file of the District Munsif Court, Pollachi.

For Petitioner : Mr.D.R.Arunkumar

For Respondents : Mr.G.Ponnambalathiyagarajan

O R D E R

The petitioner has come up with this revision challenging the order made in I.A.No. 573 of 2018 in O.S.No. 609 of 2010 on the file of the District Munsif, Pollachi summoning certain records from the record Officer constituted under the Tamilnadu Agricultural Lands (Record of Tenancy Rights), Act 10 of 1969.

2. The suit in O.S.No. 609 of 2010 has been filed by the petitioner herein claiming permanent injunction on the ground she is tenant under the respondents and her name has been registered as a tenant with the record Officer constituted under the Tamilnadu Agricultural Lands (Record of Tenancy Rights), Act 10 of 1969. The order said to have been passed by the said Officer has also been produced as Ex.B1. The respondents / land owners have come up with an application seeking to summon the records relating to the proceedings specifically contending, no notice of proceedings have been served on them and they did not appear before the Authorized Officer. Therefore, it appears that the case of the respondents is that there has been some irregularity in the proceedings before the record officer and a possibility of impersonation.

3. This application was resisted by the petitioner contending that an application under Section 151 read with Rule 75(2) of the code of civil procedure could be invoked only when a copy application has been made and the same has been refused. The Trial Court held that the application is one under Order 13 Rule 10(2) of C.P.C and condoned the defect in filing the same with a supporting affidavit and allowed the application. Aggrieved, this revision.

4. I have heard Mr.D.R.Arunkumar, learned counsel for the petitioner and Mr.G.Ponnambalathiyagarajan, learned counsel for the respondent.

5. The pleading of the respondents before the Trial Court is that there has been a irregularity in the conduct of proceedings before the Authorised Officer. It is specifically alleged that no notice was served on the second respondent herein, who has shown as land owner and he did not appear before the Authorized Officer. The sum and substance of the petition is that there has been impersonation before the Authorized Officer. When such a serious allegation has been made and the records are sought to be summoned, the Trial Court was right in treating the application as one filed under Order 13 Rule 10 of the C.P.C and allowing the same. Order 13 Rule 10 of C.P.C enables the Court to summon the records, on its own motion, even without of application therefore, the absence of affidavit in support of the application will not vitiate the order of the Trial Court. I therefore, find no ground to interfere with the order of the Trial Court. This civil revision petition is dismissed, confirming the order of the Trial Court. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To:-
The District Munsif Court,
Pollachi.

C.R.P.No. 2870 of 2018
and
C.M.P.No. 16888 of 2018

VSNII (CO)
RMP (05/10/2020)

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