

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD)No.1928 of 2020

CMP.No.11802 of 2020

Baskaran

Petitioner

Vs

1. Elumalai
2. Subbaraya Gounder
3. Gannasekaran

Respondents

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order and decreetal order dated, 09.09.2020, made in IA.No.1325 of 2019 in OS.No.131 of 2013, by the Principal District Munsif Court, Tindivanam.

For Petitioner : Mr.T.Dhanasekaran

ORDER

1. This Civil Revision Petition has been filed, to set aside the order and decreetal order dated, 09.09.2020, made in IA.No.1325 of 2019 in OS.No.131 of 2013, by the Principal District Munsif Court, Tindivanam.
2. This court heard the learned counsel for the Petitioner.
3. The Plaintiff is the Petitioner herein and the suit is one for specific performance of an oral agreement. As per the plaint averments, the plaintiff has paid the entire sale consideration and he is in possession of the property and hence, he has filed OS.No.131 of 2013, before the Principal District Munsif Court, Tindivanam. After settlement of the pleadings and issues were

framed, trial has been completed and the matter was posted for arguments. At this juncture, the Petitioner has filed IA.No.1325 of 2019 to note down the physical features and also for classification of the land in the suit schedule item (2) of the property, as to whether it is a natham survey number or not, to an extent of three cents and the said IA has been dismissed. Hence, this Civil Revision Petition has been filed.

4. The learned counsel for the Petitioner could contend that the Respondent/ Defendant has taken a specific plea in the Written Statement at paragraphs 1 and 2, disputing the classification of the lands and hence, he has filed IA.No.1325 of 2019, to note down the physical features with the assistance of the Village Administrative Officer and the Taluk Surveyor and to file a report and sketch.
5. The suit is one for specific performance. The classification of the land is said to have been disputed by the Defendant. The proper method to prove the classification of the land is production of revenue records. According to the plaintiff, he has paid the entire sale consideration based upon the oral agreement and he is in possession of the property and as such, going by the pleadings, he is in possession of the property from the date of filing of the suit and now he has filed the present application to note down the physical features of the property and a report.
6. Taking into consideration the scope of the suit, which is one for specific performance, it is open to the plaintiff to prove the classification of the land by production of documentary evidence and it is the primary evidence for the

purpose of determination of classification of the land though the classification of the land is not the issue before the trial court. Hence, the impugned order does not suffer from any irregularity or illegality, which warrants interference by this court and therefore, this Civil Revision Petition is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, the connected MP is closed.

29.10.2020

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Principal District Munsif Court, Tindivanam.

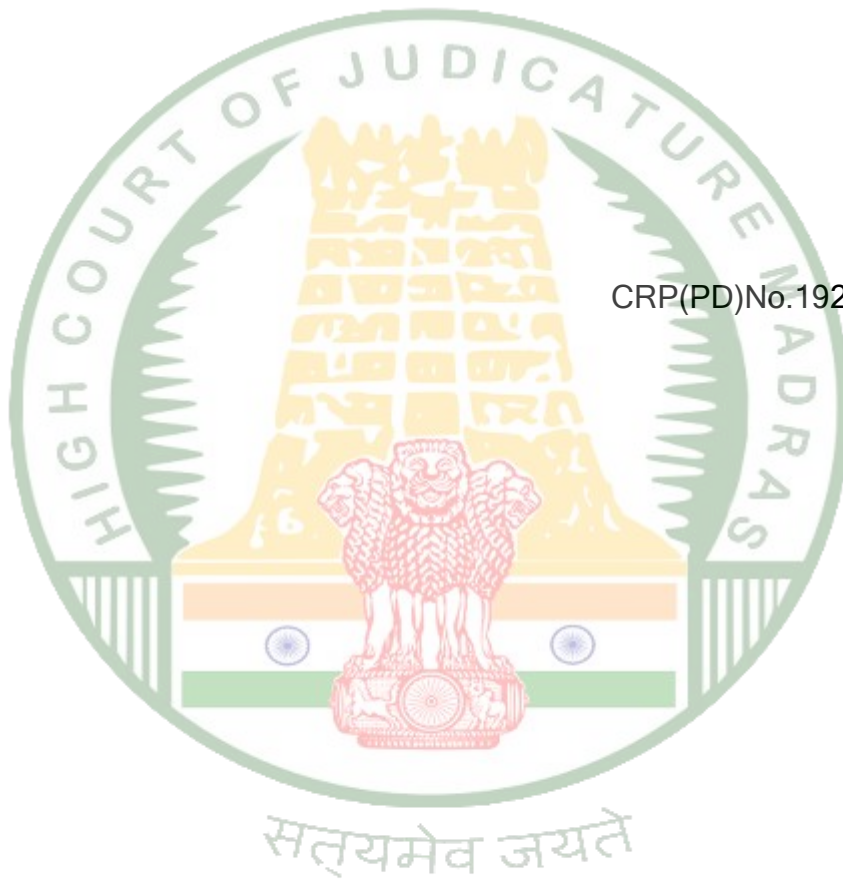


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RMT.TEEKAA RAMAN, J.

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