

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(P.D).No.3408 of 2019 and
C.M.P.No.22396 of 2019

T.Kannan

...Petitioner

Vs

Kanniappan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the fair and decreetal order dated 28.08.2019 made in I.A.No.201 of 2019 in O.S.No.68 of 2008 on the file of the learned District Munsif, Arakkonam.

For Petitioner : Mr.G.Jeremiah

For Respondent : Mr.P.Krishnan

ORDER

This Petition has been filed to set aside the fair and decreetal order dated 28.08.2019 made in I.A.No.201 of 2019 in O.S.No.68 of 2008

on the file of the learned District Munsif, Arakkonam.

2.The suit in O.S.No.68 of 2008 has been filed by the respondent/plaintiff for the relief of permanent injunction with regard to the suit schedule mentioned properties.

3.During the pendency of the suit, the revision petitioner/defendant filed the I.A.No.201 of 2019 in O.S.No.68 of 2008 on the file of the District Munsif, Arakkonam, Vellore District, for the relief of summoning the Tahsildar of Nemili, and to produce the revenue records relating to the suit properties.

4.After due consideration, the learned trial Judge dismissed the application in I.A.No. 201 of 2019 in O.S.No.68 of 2008 by order dated 28.08.2019.

5.Aggrieved against the order of the trial Court I.A.No. 201 of 2019 dated 28.08.2019, the revision petitioner is before this Court.

6.The learned counsel for the petitioner submitted that the petitioner is the defendant in the suit, filed by the plaintiff/respondent for the relief of permanent injunction with regard to the plaint schedule property. The defendant/respondent filed written statement in the suit and contended that he is entitled to the extent mentioned in the plaint schedule property. A portion of the property purchased by the petitioner/defendant under registered sale deed dated 17.10.2007, comprised in grama natham Survey No.169/1, Sankarampadi Village. During the trial, the respondent/plaintiff filed patta pass book and 'A' registered extract with respect to suit property to support his case. In order to prove the defendant's case the petitioner/defendant filed the computerized patta and other revenue documents. In that documents the name of the plaintiff and the defendant are not found. Under this circumstance, in whose name the patta stands has to be established. For that purpose, the Tahsildar of Nemili, has to be summoned to give his evidence, in whose name the patta stands. The trial Court without fact dismissed the petition in I.A.No. 201 of 2019 dated 28.08.2019, which is contrary to law and unjust. He further reiterated other grounds raised in the grounds of revision petition and thus pleaded to allow

the Civil Revision Petition.

7.The learned counsel for the respondent supported the order of the trial Court and pleaded to dismiss the revision petition as it has no merit.

8.Heard the learned counsel for the parties and perused the materials on record.

9.The respondent/plaintiff-Kanniyappan, filed the suit against the petitioner/defendant-T.Kannan, for the relief of permanent injunction with regard to the plaint schedule property in Survey No.169/1, Sankarampadi Village. The plaint schedule property is Grama Natham. To probabalise the possession and right over the property, the respondent/plaintiff filed revenue records, likewise the petitioner/defendant also filed computerized patta and other related revenue documents. In which the name of the both the parties not found. Further, the revenue documents, ie., patta and chitta is not having the name of neither the respondent nor the petitioner herein and it is left blank. For that purpose the revision petitioner/defendant filed the

application in I.A.No.201 of 2019 to summon the Tahsildar of Nemili, to clarify the possession in whose name the patta stands. But the trial Court dismissed the petition on the ground that the case is pending for more than one year at the stage of defendant's side examination. Belatedly, the petitioner/defendant filed the petition and the suit is more than 10 years old. Thereby the trial Court dismissed the petition.

10.The trial Court erred in dismissing the petition on the ground of long pendency of case. Admittedly there is a dispute with regard to the plaint schedule property. Property being a Grama Natham and the revenue records obtained by the petitioner/defendant, i.e., patta clearly shows that the names of the parties are not mentioned in it. The possession has to be clarified to adjudicate the case. Without clarifying the possession, the trial Court cannot adjudicate the case. In order to adjudicate the case completely and effectively, the Tahsildar of Nemili has to be summoned with regard to giving evidence based on the revenue documents. By showing long pendency of suit, decision of justice should not be permitted to hamper. Delay is not a ground for rejecting the application. Therefore I set aside the

order of the trial Court made in I.A.No.201 of 2019 in O.S.No.68 of 2008 dated 28.08.2019.

11.In the result, the Civil Revision Petition is allowed. The learned District Munsif, Arakkonam, is hereby directed to allow the petitioner/defendant to summon the Tahsildar, Nemili to given his evidence with regard to the plaint schedule property and further directed to dispose of the case within a period of three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

14.12.2020

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Index: Yes/No

Speaking Order: Yes/No

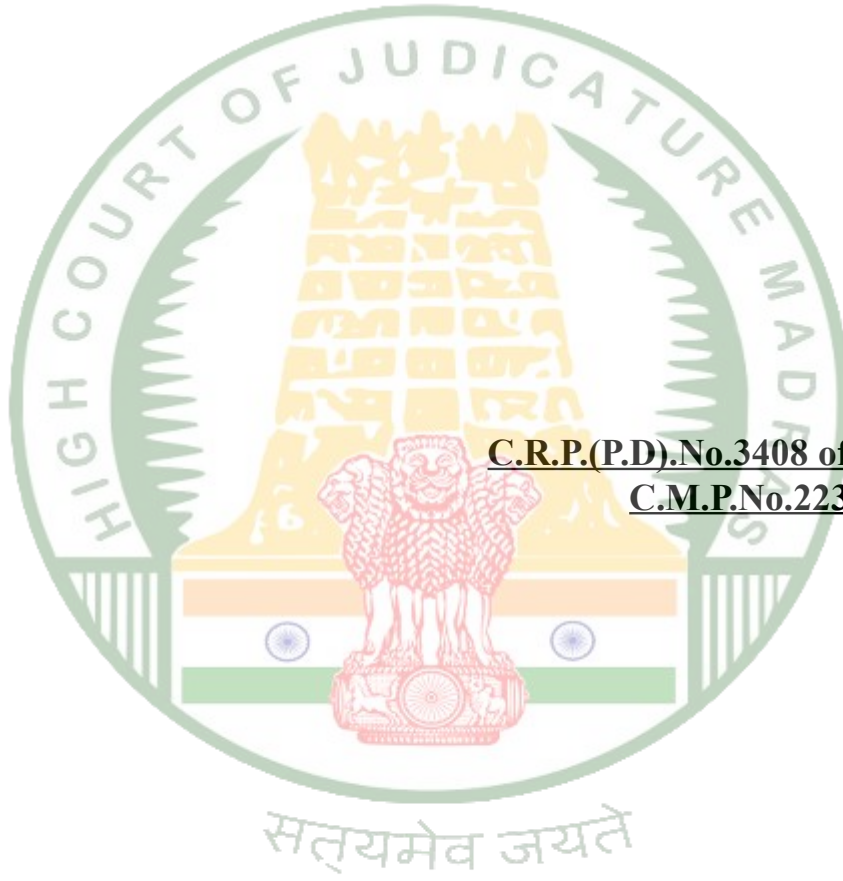
To

The District Munsif, Arakkonam.

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V.SIVAGNANAM.J,

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