



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

C.R.P. (MD)No.1950 of 2012

and

M.P. (MD) .No.1 of 2012

1.R.B.R.Ilango

2.V.Balasubramanian .. Petitioners/Respondents 1 & 6/
Defendants 1 & 6

vs.

1.S.Kannan .. 1st Respondent/Petitioner/Plaintiff

2.Meenakshi

3.M.Iyyathurai

4.Ramalakshmi

5.M.Gurusamy .. Respondents 2 to 5/Respondents 2 to
5/Defendants 2 to 5

[The above said 5th respondent is set
exparte in the lower court, hence service
of notice to the 5th respondent may be
dispensed with]

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India, against the fair and decreetal order, dated
28.01.2012, in I.A.No.1116 of 2011 in O.S.No.215 of 2010, on the
file of the District Munsif Court, Kovilpatti.

For Petitioners : Mr.D.Nallathambi

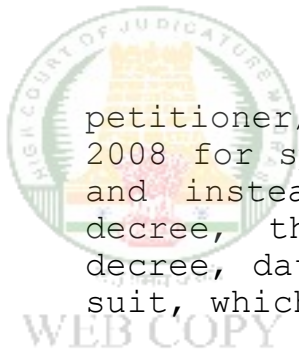
For 1st Respondent : Mr.S.Pon Senthil Kumar

O R D E R

This Civil Revision Petition has been directed against the
impugned fair and decreetal order, dated 28.01.2012, passed in
I.A.No.1116 of 2011 in O.S.No.215 of 2010, on the file of the
learned District Munsif, Kovilpatti.

2. The petitioners are the defendants 1 & 6 in the civil suit
in O.S.No.215 of 2010, filed by the first respondent/plaintiff for
declaration that the suit schedule properties belongs to him and for
a consequential permanent injunction restraining the defendants and
their men from interfering with his possession and enjoyment and
also to set aside the decree, dated 17.09.2008, passed in O.S.No.85
of 2008 and to declare the sale deed 25.08.2009 executed in favour
of the first defendant in pursuance of the decree dated 17.09.2008
and the sale deed dated 13.05.2010 executed by the first defendant
in favour of the second defendant as null and void.

3. According to the petitioners/defendants 1 and 6, the first
<https://hcservices.ecourts.gov.in/hcservices/>



petitioner/first defendant had already filed a suit in O.S.No.85 of 2008 for specific performance and the said suit was decreed exparte and instead of filing an application to set aside the exparte decree, the first respondent questioned the correctness of the decree, dated 17.09.2008 made in O.S.No.85 of 2008 by filing another suit, which is not maintainable in law.

4.According to the first respondent/plaintiff, the petitioners herein/defendants 1 and 6 have attempted to encroach upon the suit property by obtaining a decree for specific performance behind his back as though he has engaged a counsel. Therefore, an application in I.A.No.1116 of 2011 has been filed in the pending suit to compare the signature of the first respondent in the vakalat as well as in the suit summons in O.S.No.85 of 2008 and the same was allowed and contending that this move would protract the disposal of the pending suit in O.S.No.215 of 2010, this Civil Revision Petition has been filed by the petitioners/defendants 1 and 6.

5.This Court hardly finds any merits in the Civil Revision Petition and the reason being the case of the first respondent/plaintiff is that decree for specific performance was obtained behind his back as though he has engaged a counsel and therefore, the first respondent herein/plaintiff is perfectly right in seeking to compare the signature found in the vakalatnama and also in the summons issued by the trial Court in O.S.No.85 of 2008 by filing an application in I.A.No.1116 of 2011 without any delay, in order to prove his case. The Petitioners have failed to prove that the first respondent is protracting the disposal of the suit in O.S.No.215 of 2010. Therefore, the trial Court cannot be found fault for allowing the application. Hence, the Civil Revision Petition is liable to be dismissed. Accordingly, this Civil Revision Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

6.Since the suit in O.S.No.215 of 2010 is of the year 2010, the trial Court is directed to proceed with the trial and dispose the said suit within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



PJL

To

1.The District Munsif,
Kovilpatti.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.S.PON SENTHIL KUMARAN, Advocate (SR-1189[F] dated
09/01/2020)

C.R.P. (MD)No.1950 of 2012
08.01.2020

KK(25.06.2020) 3P 5C