



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

CRP PD(MD) No. 2112 of 2019

WEB COPY

1. Ponnuthai

2. Ramalakshmi

... Petitioners / petitioners /
Plaintiffs 1&2

Vs.

1. Kalimuthu

2. Subbiah @ Subbukutty

3. Kaliammal

4. Mariraj

5. Muthukumar

... Respondents 1 to 5 / Respondents
1 to 5 / Defendants 1 to 5

6. Karuppasamy

(R6 ex parte in I.A. and the suit and notice may be dispensed
with)

... 6th Respondent / 6th Respondent
/ 6th Defendant

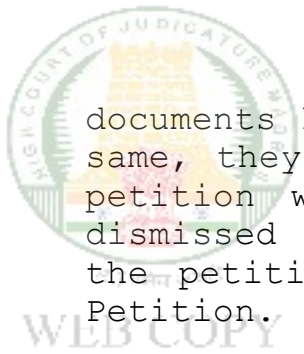
Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decreetal order dated 7.8.2019 made in I.A.No.810 of 2018 in O.S.No.29/2016 on the file of the Principal District Munsif Court, Tenkasi and to allow the same by allowing the present CRP.

For Petitioners : Mr.S.P.Maharajan

For R1 to R5 : Mr.S.Ramesh @ Ramiah

ORDER

1. The petitioners/plaintiffs filed a suit for declaration and permanent injunction in O.S.No.29 of 2016 on the file of the District Munsif Court, Tenkasi. The respondents 1 to 5/defendants 1 to 5 entered appearance and filed written statement and after framing of issues and when the suit was posted for trial, the petitioners/plaintiffs filed an application to return the document Nos. 8 and 9 filed along with the plaint, since some extent in the



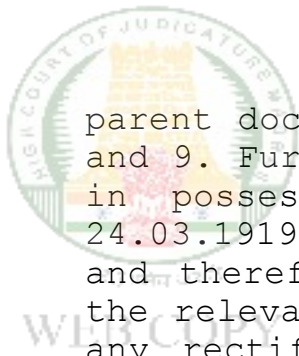
documents have been wrongly mentioned and in order to rectify the same, they sought for the said documents to be returned. The said petition was resisted by the respondents. The trial Court has dismissed the petition. Challenging the said order of dismissal the petitioners/plaintiffs have filed the present Civil Revision Petition.

2. The learned counsel for the petitioners would submit that the parent document viz., the sale deed has been executed on 24.03.1919 and subsequently two sale deeds have been executed in favour of the plaintiffs on 05.10.2015 and that documents have been shown as document Nos. 8 and 9. In the sale deed dated 24.03.1919, east west measurement of the suit property has been shown as 15 carpenter cubic feet and if it is converted into feet measurement it would come to 41.5 feet, whereas in the sale deeds dated 05.10.2015 the east west measurement of the suit property has been mentioned as 45 feet. If 15 carpenter cubic feet is converted into feet measurement it would come to only 41.5 feet and not 45 feet. Therefore, in order to rectify the measurement in the documents, the petitioners sought for the document Nos. 8 and 9. The trial Court failed to consider these aspects and dismissed the petition stating that the petitioners have not mentioned any date of the parental document and not produced parent document and they have not specifically stated regarding the measurements in the sale deed and also the exact mistake in the subsequent sale deeds. The learned counsel further submitted that he has verified with some seniors regarding the carpenter cubic feet and it was stated that one carpenter cubic feet is equivalent to $2\frac{3}{4}$ feet. Therefore, if the documents sought by the petitioners are returned and if they are rectified no prejudice would be caused.

3. The learned counsel for the respondents 1 to 5 would submit that in the affidavit filed by the petitioners before the trial Court for return of the documents they have not specifically stated what was the exact mistake and they have simply stated that some mistakes in some of the documents. The trial Court after considering the documents available on record has rightly dismissed the petition and therefore, the same does not require any interference.

4. Heard the learned counsel on either side and perused the materials placed before the Court.

5. Admittedly, the petitioners filed a suit for declaration and permanent injunction and they have also produced the relevant documents. Even though they produced certified copy of the sale deed dated 24.03.1919, they have not stated anything in the affidavit filed for return of the documents regarding the said



parent document and they only sought to return the document Nos.8 and 9. Further, even without rectification, if the petitioners are in possession of the property based on the document dated 24.03.1919, the very same property has been subsequently conveyed and therefore, they can very well compare the measurements with the relevant documents and revenue records and they need not make any rectification after 100 years. Further, the suit was filed only in the year 2016. Under these circumstances, this Court does not find any perversity in the order passed by the trial Court. Therefore, this Civil Revision Petition is liable to be dismissed and accordingly it is dismissed. However, it is made clear that the trial Court is directed to proceed with the suit in accordance with law, uninfluenced by any of the observations made in this order. No costs.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Principal District Munsif Court, Tenkasi

+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-12395[F] dated 19/03/2020)

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SPU(07.05.2020) 3P 3C