

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).Nos.1422 and 1423 of 2015
& M.P.No.1 of 2015

Chinnathambi

... Petitioner
in both the C.R.P.'s

Vs

1.Samikannu
2.Palanivel

... Respondents
in both the C.R.P.'s

Prayer in C.R.P.No.1422 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in I.A.No.1234 of 2014 in O.S.No.203 of 2013 dated 10.11.2014 on the file of the Principal District Munsif, Ulundurpet.

Prayer in C.R.P.No.1423 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in I.A.No.1235 of 2014 in O.S.No.203 of 2013 dated 10.11.2014 on the file of the Principal District Munsif, Ulundurpet.

In both the C.R.P.'s:

For Petitioner : Mr.N.Suresh

For Respondents : Notice served
No appearance

COMMON ORDER

The Civil Revision Petitions have been filed,

(i) to set aside the fair and decretal order passed in I.A.No.1234 of 2014 in O.S.No.203 of 2013 dated 10.11.2014 on the file of the Principal District Munsif, Ulundurpet.

(ii) to set aside the fair and decretal order passed in I.A.No.1235 of 2014 in O.S.No.203 of 2013 dated 10.11.2014 on the file of the Principal District Munsif, Ulundurpet, thereby dismissed the petitions filed by the petitioner herein on the ground that in the written statement the petitioner never stated that suit property is situated in S.No.17/2.

2. Aggrieved by the orders of the learned Principal District Munsif, Ulundurpet, in I.A.Nos.1234 and 1235 of 2014 in O.S.No.203 of 2013 dated 10.11.2014, the petitioner has preferred the present Civil Revision Petitions.

3. The petitioner is the defendant in the suit filed by the respondents herein for permanent injunction in respect of the suit schedule property. According to the respondents the suit property is situated at

Survey No.17/12 ad measuring 10 cents and classified as Grama Natham, whereas the petitioner filed a written statement stating that the respondents 1 and 2 are not residing at the suit property and they are living in somewhere and as such they are no way connected with the suit property. After examining D.W.1, when the matter was posted for arguments, the petitioner filed a petition to reopen and to examine the VAO to identify the suit property whether it is situated at Survey No.17/12, or 17/2 ?.

4.The case of the petitioner is that the petitioner is the patta holder for the property comprises in Survey No.17/2, admeasuring 153 cents and adjacent to the said property, the suit property is situated and as such it is in possession and enjoyment of the petitioner. Therefore the petitioner filed a petition to examine the VAO of Ulundurpet Village to identify the suit property, whether it is situated in Survey No.17/12 or 17/2 ?. The trial Court dismissed the same for the reason that the petitioner filed written statement and admitted that the suit property is classified as Government Poramboke. On perusal of the written statement the petitioner stated that the suit property is not in possession of the respondents 1 and 2 and they constructed a house in some other suit property and living there. Therefore

they are no way connected with the suit property. It is also seen that they never admitted that the suit property is Government Poramboke land. On perusal of the schedule plaint, the suit property is classified as Grama Natham. Therefore there is a dispute in respect of identifying the property between the petitioner and the respondents herein. In such circumstances the VAO is the competent person to identify the suit property comprised in Survey No.17/12. It would also help the trial Court to decide the issues without any issue in respect of identity of the suit property.

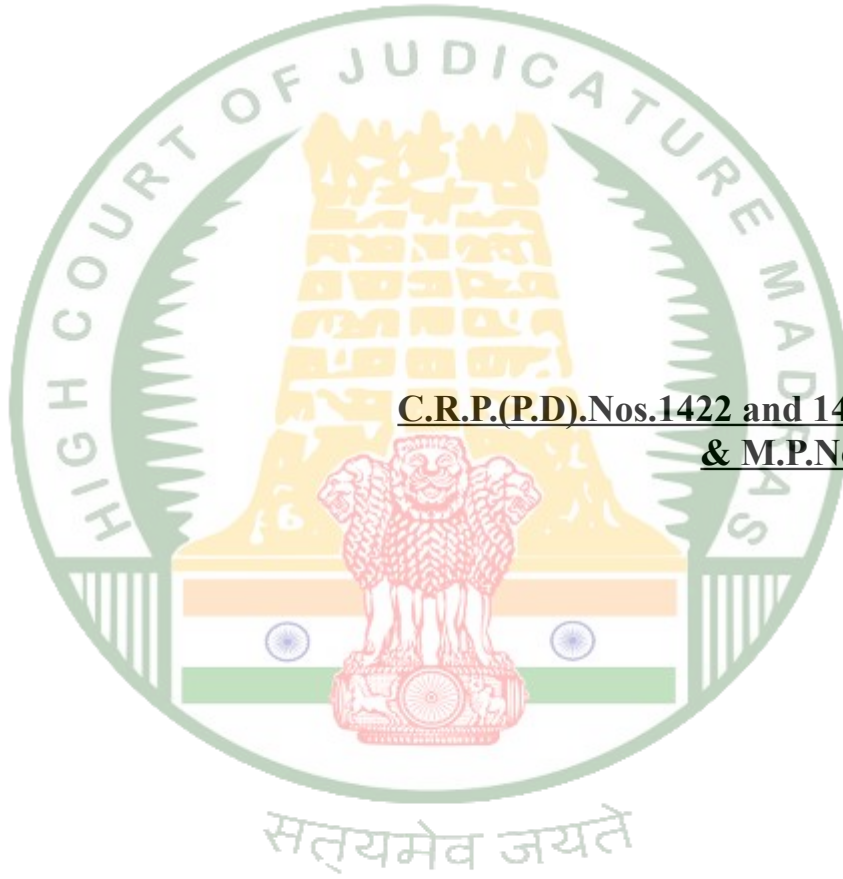
5.In view of the above decision both the Civil Revision Petitions are allowed. However, it is made clear that the trial Court is directed to fix the date for examining VAO on the side of the petitioner herein and after examining the VAO dispose of the main suit, within a period of one month from the date of examination of VAO. No costs. Connected miscellaneous petition is closed.

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Jer
To
The Principal District Munsif, Ulundurpet.

C.R.P.(P.D).Nos.1422 and 1423 of 2015

G.K.ILANTHIRAIYAN.J,

Jer



C.R.P.(P.D).Nos.1422 and 1423 of 2015
& M.P.No.1 of 2015

WEB COPY

19.01.2021