

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.2347 of 2015

and

M.P.No.1 of 2015

1.Muthuvel Pillai

2.Chinnammal

.. Petitioners

Vs.

1.The District Collector,
Salem.

2.The Tahsildar,
Attur.

3.The Deputy Inspector of Surveys,
Attur.

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.03.2015 made in I.A.No.316 of 2015 in O.S.No.236 of 2011 on the file of the District Munisif Court, Attur.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Dr.S.Suriya,
Government of Counsel

ORDER

(The matter is heard through “Video Conferencing/Hybrid Mode”).

This Civil Revision Petition is filed against the fair and decretal order dated 18.03.2015 made in I.A.No.316 of 2015 in O.S.No.236 of 2011 on the file of the District Munisif Court, Attur.

2.The petitioners are the plaintiffs in O.S.No.236 of 2011, filed the suit against the respondents / defendants for declaration of title of 2nd petitioner, permanent injunction restraining the respondents from causing any mutation in the revenue records and for mandatory injunction to include the name of the 2nd petitioner in the computerised patta for the suit properties. The respondents / defendants filed written statement and are contesting the suit. Trial commenced. Petitioners and respondents let in evidence and closed their side. When the suit was posted for arguments, the respondents filed three applications in I.A.No.196 of 2015 to reopen the case, I.A.No.198 of 2015 to receive the documents and I.A.No.316 of 2015 to recall D.W.1 and to mark the documents. According to respondents, at the time of filing written statement, the documents for faslis 1420 to 1422 were not mentioned in the written statement and filed before the Court. The respondents submitted that documents sought to be marked are very much necessary to prove their case.

The petitioners filed counter affidavit and opposed the said contention and also contended that already D.W.1 was recalled, examined in chief and cross examined. At that time itself, the respondents ought to have filed and marked the documents and after closure of evidence and arguments on behalf of petitioners, the applications have been filed belatedly only to fill up lacuna and prayed for dismissal of all the three applications.

3.The learned Judge considering the averments in the affidavit and counter affidavit, allowed all the three applications by separate orders on 18.03.2015.

4.The petitioners have come out with the present Civil Revision Petition challenging only the order passed in I.A.No.316 of 2015, recalling D.W.1 for marking the documents.

5.Heard the learned counsel appearing for the petitioners as well as the learned Government of Counsel appearing for the respondents and perused the entire materials on record.

6.From the materials available on record, it is seen that after conclusion of evidence on behalf of petitioners and respondents and arguments of counsel for petitioners, the respondents filed three applications in I.A.No.196 of 2015 to reopen the case, I.A.No.198 of 2015 to receive the documents and I.A.No.316 of 2015 to recall D.W.1 and to mark the documents. The respondents are seeking to mark extract of adangal register for the Faslis 1420 to 1422, which were not mentioned in the written statement. From the order of the learned Judge, it is seen that the learned Judge held that the issue to be decided in the suit is whether patta issued for a suit property is conditional patta. In view of the same, by permitting the respondents to mark the document now sought for, will not be to fill up lacuna and allowed all the three applications. The petitioners have not challenged the order allowing the I.A. for reopening the case and condoning the delay in filing the documents. The order passed in those applications have become final. Once suit is reopened and delay in filing the documents are condoned, only by recalling D.W.1 the documents can be marked. The learned Judge has considered the same and passed orders and the same needs no interference by this Court. In view of the above facts, the present Civil Revision Petition challenging the order passed in I.A.No.316 of 2015 recalling D.W.1 alone is liable to be dismissed.

7.In the result, this Civil Revision Petition stands dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

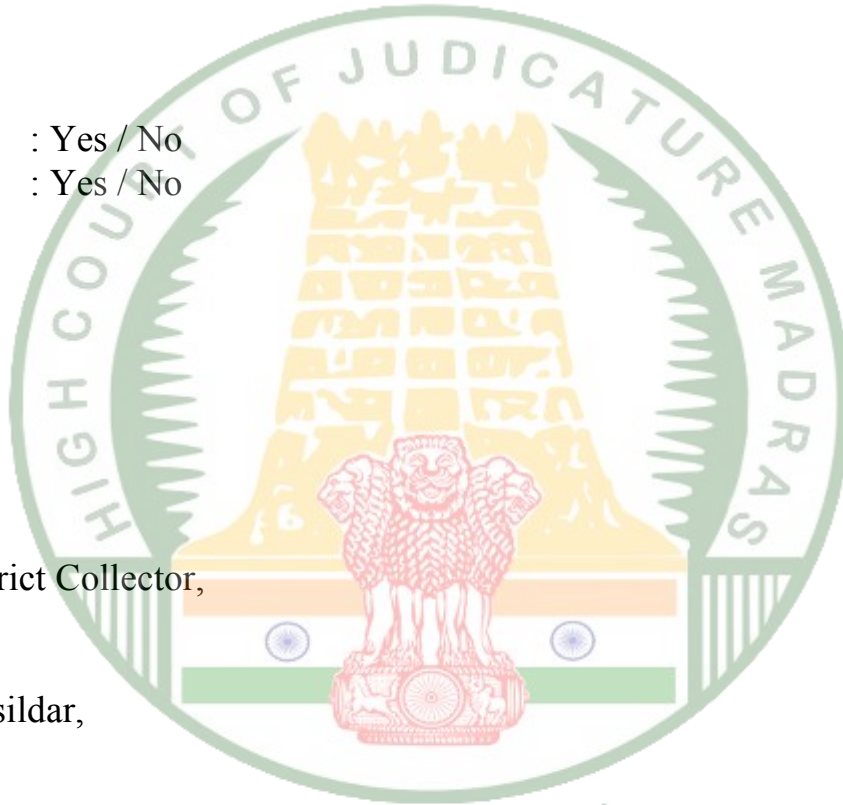
To

1.The District Collector,
Salem.

2.The Tahsildar,
Attur.

3.The Deputy Inspector of Surveys,
Attur.

4.The learned District Munisif,
Attur.



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