

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order <u>07.10.2021</u>	Date of Pronouncing Order 22.10.2021
--	---

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD)Nos.865, 868 & 869 of 2019
and
CMP.No.5639 of 2019

1. Palaniappan
2. Sellakannu
3. Karuppannan
4. Kandasamy
5. Thangammal
6. Govindaraj
7. Chinnannan

...Petitioners

Versus

1. Umapathi
2. Mani
3. Selvam
4. The Secretary

WEB COPY

Rasipuram Co-op. Primary
Agricultural & Urban Development Bank
Opp. to Old Civil Court Buildings
Rasipuram Taluk, Namakkal District

5. State of Tamil Nadu
Rep. by District Collector
District Collectorate
Nallipalayam Post
Namakkal District.

6. Revenue Divisional Officer
Mahanur Road
Namakkal District.

7. Tahsildar
Rasipuram Taluk
Attur Main Road
Rasipuram

8. Village Administrative Officer
Kurukkapuram
Rasipuram Taluk
Namakkal District

...Respondents.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 17.12.2018 in I.A.Nos.874, 875 and 876 of 2018 in O.S.No.102 of 2015 on the file of the District Munsif Court, Rasipuram.

In all C.R.P.'s:

For Petitioners : Mr.D.Shivakumaran

For R1 to R3 : Mr.Prithivi

for Mr.S.Kaitahmalaikumaran

For R4 to R8

: Mr.Dr.S.Suriya

COMMON ORDER

Since the issue involved in all these Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. These Civil Revision Petitions 865, 868 and 869 of 2019 has been filed challenging the orders passed in I.A.Nos.874, 875 and 876 of 2018 respectively in O.S.No.102 of 2015.

3. I.A.No.874 of 2018 was filed to re-open the case of the petitioners/plaintiffs for adducing evidence and to mark the documents. I.A.No.875 of 2018 has been filed to re-call PW2 to mark the documents. I.A.No.876 of 2018 has been filed to condone the delay in producing the documents. It is seen from the affidavits filed in support of these petitions that the petitioners filed a suit for the relief of declaration, mandatory injunction and permanent injunction.

4. The first respondent's father Mr.Sengottu Velu filed L.A.O.P.No.84 of 1979 before the Subordinate Court, Namakkal. This L.A.O.P. was allowed on 08.01.1982 and compensation was given to first respondent's father and his land has been acquired by the Government and the award was passed on 08.03.1976. Petitioners has to mark the land acquisition proceedings, the award passed by the land acquisition Officer, the Court ordered for deposition of first respondent's father. These documents will prove the case of the petitioners that the Government has not given any piece of land for the land taken from first respondent's father for the purpose of construction of Government Arts college. The petitioners was able to get these documents only now. Therefore, petitioners should be given an opportunity to produce these documents by condoning the delay in producing the documents and by re-opening the case of the plaintiffs for re-calling PW2. The respondents objected this petition on the ground that the first respondent claim that in lieu of land to an extent of 0.76acres in survey No.19/2 from Mandiri @ Sengottuvelu. The Government has given 3.95acres in survey No.24/7. Now the documents sought to be filed relate to survey No.16/1B and the survey No.16/1C. The owners of these lands are Athayee, her minor sons, her husband's brothers Sengottaiyan, Palaniyappa gounder. The Sengottaiyan concerned with survey No.16/1B, 16/1C has no connection with Mandiri @ Sengottuvelu. The petitioners are

trying to mark documents relating to properties which are no way connected with the suit property.

5. The learned District Munsif, Civil Judge (Junior Division), Rasipuram on considering the rival submissions dismissed these petitions, mainly on the reason that the documents are sought to be produced do not relate to the suit properties. Against the said order of dismissal, these Civil Revision Petitions are preferred.

6. The learned counsel for the petitioners submitted that the documents mentioned in I.A.No.876 of 2018 are absolutely necessary for proving the case of the petitioners. The Sengottaian concerned in L.A.O.P.No.84 of 1979 and the first respondent Sengottaian are one and the same person and that has to be established by production of these documents. The documents sought to be produced are official documents and separate copies of these documents are sought to be produced. Therefore, the learned counsel for the petitioners prayed for setting aside the order of the learned District Munsif, Civil Judge (junior Division), Rasipuram and for allowing the applications.

7. In response the learned counsel for the respondents submitted that these documents do not relate to the suit properties. On going through the documents produced, the learned District Munsif, Civil Judge (junior Division), Rasipuram came to the conclusion that the documents sought to be produced do not relate to the suit properties and therefore, rightly dismissed the petitions. Thus, the learned counsel for the respondents prayed for confirming the order of the learned District Munsif, Civil Judge (Junior Division), Rasipuram and for the dismissal of these Civil Revision Petitions.

8. Considered the rival submissions and perusal of records,

9. The suit was filed by the petitioners claiming the relief of declaration of title, permanent and mandatory injunctions. It is seen from the plaint averments that there are dispute in claiming right over the suit properties between the petitioners and the first respondent's father Sengottuvelu.

WEB COPY

10. The petitioners claim the right on the basis of their possession. It is claimed by the petitioners that the first respondent obtained patta in respect of survey No.24/7 by influencing the Revenue Authorities. When the respondents tried to interfere with the possession of the petitioners enjoyment, suit came to

be filed. The first respondent disputed the case of the petitioners and claimed that the property in survey No. 24/7 originally belong to the Government of Tamil Nadu. Patta was granted in favor of first respondent's father Mandiri @ Sengottuvelu in respect of 3.98acres in survey No.24/7 on 02.08.1975. Mandiri @ Sengottuvelu had donated to an extent of 0.76acres in survey No.19/2 to the Government of Tamil Nadu for constructing Government Arts College. In lieu of that donation, the property in survey No.24/7 to an extent of 3.98acres was assigned to Mr. Mandiri @ Sengottuvelu. The suit filed by the petitioners is mis-conceived.

11. Admittedly, the suit was filed in respect of the properties in survey No.24/7. The petitioners want to produce the documents for the purpose of proving their case that the first respondent's father land had been acquired by the Government and compensation was paid to him by the land acquisition officer on 08.03.1976 and by the learned Subordinate Judge in L.A.O.P.No.84 of 1979 on 08.01.1982. It is the further case of the petitioners that the Government has not taken any piece of land from the respondent's father for the purpose of construction of Government Arts College.

12. The learned counsel for the petitioners submitted that if the petitioners is able to prove this case, the first respondent claim that the lands of Mandiri @ Sengottuvelu in survey No.19/2 was taken and in lieu thereof land in survey No.24/7 assigned to him can be disproved. If the petitioners are able to prove with this case, this would have direct bearing in the out come of the case.

13. Therefore, in the interest of justice and to render a substantial justice by giving an opportunity to the parties. This Court is of the considered view that the petitioners should be given an opportunity to produce the documents sought to be produced in I.A.No.876 of 2018 by re-opening the case and recalling PW1. In this view of the matter, the order dated 17.12.2018 passed by the learned District Munsif, Civil Judge (Junior Division), Rasipuram in I.A.Nos. 874, 875 and 876 of 2019 are set aside and these applications are allowed.

WEB COPY

14. Resultantly, these Civil Revision Petitions are allowed. No Costs. Consequently, connected miscellaneous petition is closed.

22.10.2021

jai

Index: Yes/ No

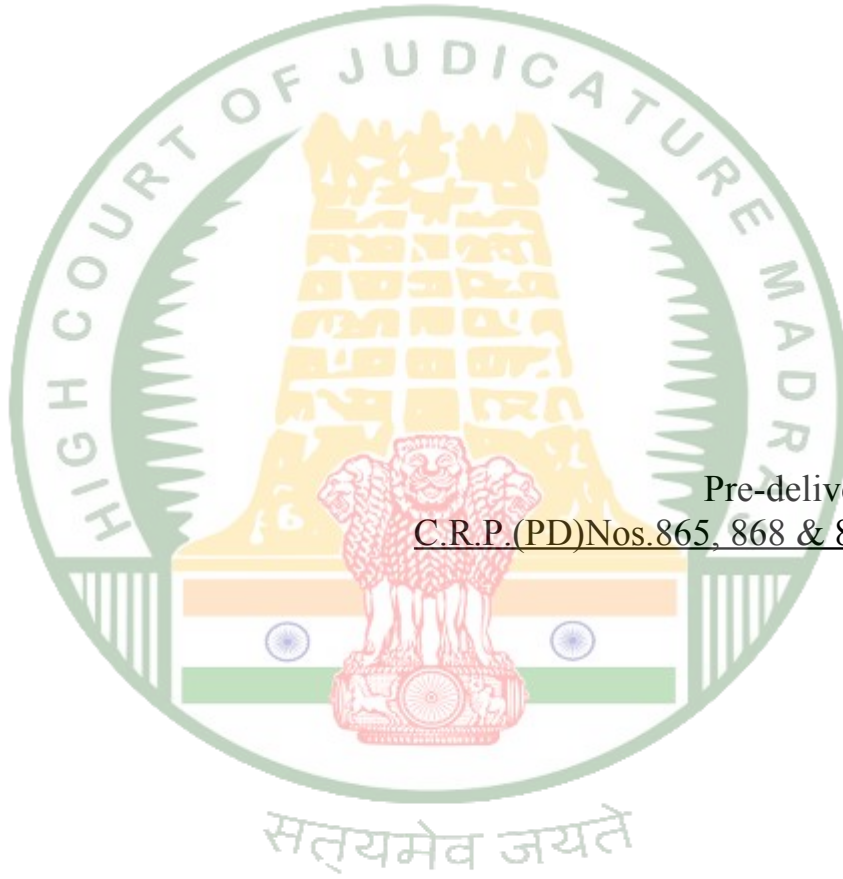
Speaking Order / Non-Speaking Order

To

1. The Secretary
Rasipuram Co-op. Primary
Agriculture & Urban Development Bank
Opp. to Old Civil Court Buildings
Rasipuram Taluk, Namakkal District
2. State of Tamil Nadu
Rep. by District Collector
District Collectorate
Nallipalayam Post
Namakkal District.
3. Revenue Divisional Officer
Mahanur Road
Namakkal District.
4. Tahsildar
Rasipuram Taluk
Attur Main Road
Rasipuram
5. Village Administrative Officer
Kurukkapuram
Rasipuram Taluk
Namakkal District
6. The District Munsif,
Civil Judge (Junior Division)
Rasipuram

G.CHANDRASEKHARAN, J.,

jai



Pre-delivery order in
C.R.P.(PD)Nos.865, 868 & 869 of 2019

WEB COPY

Dated: 22.10.2021