



CRP.PD.No.1024/2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRP.PD.No.1024/2019 & CMP.No.7162/2019

[Hybrid Mode]

K.Perumal

.. Petitioner /
Plaintiff

Vs.

Smt.A.Dhanalakshmi

.. Respondent /
Defendant

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order of the learned Additional District Munsif, Alandur in IA.No.13/2019 in OS.No.568/2015 dated 28.01.2019.

For Petitioner	:	Mr.T.Easwaradhas
For Respondent	:	No appearance

ORDER

- (1) Despite notice being sent to the sole respondent/defendant and he is represented by a counsel, there is no representation when the matter was taken up for hearing on 01.12.2021. Hence, this Court directed the Registry to list the matter on 06.12.2021 under the



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caption "For Orders". Again when the matter is taken up today, there is no representation for the sole respondent/defendant. Hence, this Court proceeded to dispose of this Civil Revision Petition on merits.

- (2) The revision petitioner is the plaintiff in the suit in OS.No.568/2015 on the file of the learned Additional District Munsif, at Alandur. The suit filed by the revision petitioner/plaintiff in OS.No.568/2015 is for declaration to declare that the measurement of the suit Schedule "B" Property starts from the Northern boundary of the road [Emerald Stree] and is having linear measurement of 50 feet on the Eastern side and Western side starts from the 22 feet Emerald Street and the suit Schedule "B" property is bounded on the South by 22 feet Emerald Street and there is no vacant site in between the Emerald Street and the suit Schedule "B" property. The suit is also for consequential permanent injunction restraining the defendant or his men from interfering with the plaintiff's peaceful possession and enjoyment of the suit "A" Schedule property.



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- (3) During the pendency of the suit, the revision petitioner/plaintiff filed an application in IA.No.530/2018 to issue summons to the Revenue Tahsildar, Alandur Taluk. It is stated by the petitioner/plaintiff that during the pendency of the said application, the Alandur Taluk was bifurcated and new Pallavaram Taluk was created. In view of bifurcation, it is further stated that the suit Schedule property has come within the territorial jurisdiction of Pallavaram Taluk. Therefore, the revision petitioner/plaintiff filed a Memo and sought permission to withdraw the application in IA.No.530/2018.
- (4) It is admitted that on the same day, the revision petitioner/plaintiff filed another application in IA.No.1015/2018 under Order 16 Rule 1[3] CPC to issue summons to the Revenue Tahsildar, Pallavaram Taluk, for furnishing revenue records relating to Emerald Street of Kilkattalai Village, Madipakkam Part-II. The second application filed by the revision petitioner/plaintiff in IA.No.1015/2018 was allowed on 02.11.2018 as per the endorsement made by the respondent/defendant.



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- (5) The Revenue Tahsildar, Pallavaram, entered appearance on 05.12.2019 and deposed to the effect that the revenue records pertaining to Emerald Street of Kilkattalai Village, is not within his custody, but with the Special Tahsildar, Town Settlement Scheme, Pallavaram. It was thereafter, the revision petitioner/plaintiff had filed the third application in IA.No.13/2019 to issue summons to the Special Tahsildar, Town Settlement Scheme, Pallavaram, to furnish revenue records of Emerald Street, Kilkattalai Village, Madipakkam Part-II.
- (6) It is admitted that the respondent/defendant made an endorsement "no counter". However, the Trial Court, treating the application as a successive application to protract the proceedings, dismissed IA.No.13/2019. Aggrieved by the same, the above Civil Revision Petition is filed.
- (7) The learned counsel for the revision petitioner referred to the affidavit filed in support of all the three Interlocutory Applications one after another and submitted that the third application in IA.No.13/2019 was necessitated in view of the evidence of the



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Revenue Tahsildar, Pallavaram Taluk, regarding the possession and jurisdiction of the records relating to the survey and land records pertaining to the Pallavaram Taluk.

- (8) This Court has perused the Interlocutory Applications filed by the revision petitioner/plaintiff in IA.Nos.530/2018, 1015/2018 and 13/2019. It is only because of the factual circumstances, successive applications were filed and that the revision petitioner/plaintiff was forced to file the third application in view of the specific stand taken by the Revenue Tahsildar, Pallavaram Taluk, while examining him under Order 16 Rule 1[3] CPC.
- (9) Having regard to the reasons stated by the revision petitioner/plaintiff in the application in IA.No.13/2019, the Lower Court has passed an order without an application of mind as to the factual details stated by the revision petitioner/plaintiff. When the facts are not disputed by the contesting respondent/defendant, the Lower court ought to have considered the case of the revision petitioner/plaintiff as stated by him in the affidavit filed in support of the Interlocutory Application. Since revenue records pertaining



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to Emerald Street of Kilkattalai Village is available only with the Special Tahsildar, Town Settlement Scheme, Pallavaram Taluk, the revision petitioner/plaintiff's application in IA.No.13/2019 is appropriate and that the order passed by the Lower Court without application of mind, is not only irregular but also illegal affecting the rights of the revision petitioner/plaintiff.

- (10) In view of the facts and details explained above, the Civil Revision Petition has to be allowed and accordingly, the same is **allowed setting aside the order dated 28.01.2019 made in IA.No.13/2019 in OS.No.568/2015 by the learned Additional District Musnfi, Alandur.** The application in IA.No.13/2019 is allowed. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2021

AP
Internet : Yes
To
The Additional District Munsif
Alandur.

S.S.SUNDAR, J.,



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