



C.R.P(PD)No.2041 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>08.12.2021</i>
<i>Pronounced on</i>	<i>14.12.2021</i>

Coram

The Honourable Mr.Justice J.SATHYA NARAYANA PRASAD

**C.R.P(PD)No.2041 of 2016
and C.M.P.No.10620 of 2016**

Rajamanickam

...Petitioner

Versus

1.Vijayan @ Vijayaraghavan

2.Chandrasekar

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order of the III Additional District Munsif Court at Kallakurichi dated 27.08.2015 in I.A.No.1894 of 2015 in O.S.No.408 of 2011.

For Petitioner : Mr.P.Valliappan

For Respondents : Mr.N.Ramesh



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ORDER

This Civil Revision Petition has been filed by the petitioner/defendant challenging the order passed by the learned III Additional District Munsif, Kallakurichi in I.A.No.1894 of 2015 in O.S.No.408 of 2011 dated 27.08.2015, in and by which, the learned III Additional District Munsif, Kallakurichi had dismissed the Interlocutory Application filed by the petitioner/defendant, under Section 151 of C.P.C., praying to examine the District Revenue Officer, Villupuram (hereinafter referred to as 'DRO') as defendant side witness in O.S.No.408 of 2011 and to produce the related documents in regard to the order passed by the DRO.

2. Heard the learned counsel on both sides and perused the materials placed before this Court.



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3. The brief facts of the case are as follows:

The respondents/plaintiffs have filed an Original Suit in O.S.No.408 of 2011 before the III Additional District Munsif Court, Kallakurichi, for declaration of the suit schedule property and for permanent injunction restraining the petitioner/defendant from interfering with the peaceful possession of the respondents'/plaintiffs' suit property. While the suit is pending, the respondents/plaintiffs have given false information to the Revenue Authorities and got the Patta issued in their favour. Aggrieved over the issuance of Patta in favour of the respondents/plaintiffs, the petitioner/defendant submitted a petition before the DRO in this regard. On receipt of the said petition, the DRO has conducted a detailed enquiry on the same and cancelled the Patta which was issued in favour of the respondents/plaintiffs and also, passed an order to grant Patta in respect of the suit schedule property to an extent of 0.09 cents, in favour of the petitioner/defendant. The copy of the said order was



also marked as Ex.B3 in the suit, by the petitioner/defendant. Based on the aforesaid order passed by the DRO, the Tahsildar has issued the Patta of the suit schedule property in favour of the petitioner/defendant. Subsequently, the petitioner/defendant has filed an Interlocutory Application in I.A.No.1874 of 2015, for examining the DRO as one of the defendant side witnesses and to produce the related documents in regard to the order passed by the DRO.

4. The learned counsel appearing for the respondent has fairly submitted that the copy of the order passed by the DRO has been already marked as Ex.B3 by the defendant and so, there is no necessity to examine the DRO as defendant side witness. He further submitted that I.A.No.1894 of 2015 has been filed by the petitioner/defendant only with an intention to drag on the proceedings. He therefore prayed that the present Civil Revision Petition is liable to be dismissed since the suit O.S.No.408 of 2011 itself is at the fag end of the trial.



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5. On perusal of the materials available on record, it is crystal clear and evident that the Interlocutory Application filed by the petitioner/defendant in I.A.No.1894 of 2015 under Section 151 of C.P.C, seeking to examine the DRO as one of the defendant side witnesses and to produce the related documents in regard to the order passed by the DRO is an unnecessary one since the DRO has cancelled the Patta which was fraudulently obtained by the respondents/plaintiffs in their favour and also, passed an order to grant Patta in favour of the petitioner/defendant. The copy of the said order has been marked as Ex.B3 by the petitioner/defendant. It is an admitted fact that based on the order passed by the DRO, the Tahsildar has issued the Patta in respect of the suit property to an extent of 0.09 cents in favour of the petitioner/defendant.

6. It is also to be noted that suit is in the fag end of the trial. At this juncture, the petitioner/defendant has filed I.A.No.1894 of 2015,



only with an ulterior motive to protract the proceedings. Further, it is seen from the affidavit filed in support of I.A.No.1894 of 2015 that the petitioner/defendant has no proper or genuine or sufficient reason for filing the said Application. Moreover, the grievance of the petitioner/defendant is not that there are some discrepancies and defects in the order passed by the DRO which can be rectified/corrected by examining him. Without assessing any valid reason in the affidavit, he has filed the said Application only on the ground that Ex.B3 has been marked by the defendant and in regard to this, he wanted to examine the DRO as defendant side witness. The trial Court has rightly placed reliance on the order passed by this Court in the case of ***Indian Auto Gas Company Limited Vs. K.Radha Lakshmi & another*** reported in ***2013 (4) CTC 684***, the relevant portion of which is extracted hereinbelow:

“6. the petition filed by the petitioner/defendant at the fag end of the trial is a clear abuse of process of Court and that has been filed only to drag on the proceedings and the petitioner/defendant could have filed those documents by getting certified copies from the



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officials and hence, the Court below has rightly dismissed the Applications.”

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The aforesaid decision of this Court is squarely applicable to the case on hand.

7. Considering the facts and circumstances of the case and in view of the order passed by this Court in the case of ***Indian Auto Gas Company Limited Vs. K.Radha Lakshmi & another*** reported in ***2013 (4) CTC 684***, this Court find no ground to interfere with the order passed by the learned III Additional District Munsif, Kallakurichi.

8. In the result, this Civil Revision Petition is dismissed and the order passed by the learned III Additional District Munsif, Kallakurichi in I.A.No.1894 of 2015 in O.S.No.408 of 2011 dated 27.08.2015 is hereby confirmed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.



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Index : Yes/No

Speaking Order (or) Non-Speaking Order

J.SATHYA NARAYANA PRASAD, J.

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To

The III Additional District Munsif Court,
Kallakurichi.

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