

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.858 of 2016
and C.M.P.No.4773 of 2016

1.Viswanathan
2.Parvathi
3.Gambeeran

...Petitioners

Vs

Arumugam

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 06.11.2015 passed in I.A.No.51 of 2015 in A.S.No.37 of 2013 on the file of the Sub Court, Cheyyar.

For Petitioners : Mr.P.Mani

For Respondent : No appearance

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 06.11.2015 passed in I.A.No.51 of 2015 in A.S.No.37 of 2013 on the file of the Sub Court, Cheyyar, thereby dismissing the

petition seeking to receive the additional documents in the Appeal Suit.

2.The petitioners are the defendants in the suit filed by the respondent herein. The suit was filed for declaration and recovery of possession. The suit was partly decreed in respect of recovery of possession alone.

3.Aggrieved by the same, the petitioners filed an Appeal Suit in A.S.No.37 of 2013. While pending the Appeal Suit, the petitioners filed an application in I.A.No.51 of 2015 to receive additional document, for the reason that the documents related to the chitta, in respect of the suit property as well as the patta related to the suit property and they were obtained under the Right to Information Act on 13.11.2013, in order to prove their possession.

4.On perusal of the affidavit filed in support of the said petition it is stated that they are in possession and enjoyment of the suit property after construction of the house. In fact, they also obtained electricity service connection in their name and they are paying the monthly electricity charges regularly. Therefore, to prove the fact that the said property belong to Randam Durairaj Nagar Cooperative Society, for which they obtained the

documents of patta and chitta in respect of the suit property under the Right to Information Act. Therefore, those documents related to the suit property are sufficiently proved their possession and enjoyment of the same. The trial Court failed to consider the above facts and dismissed the same for the reason that the petitioners failed to state about the relevancy of the documents. Therefore, the order dated 06.11.2015 passed in I.A.No.51 of 2015 in A.S.No.37 of 2013 on the file of the Sub Court, Cheyyar, is perverse and illegal and also liable to be set aside.

5. Accordingly, the Civil Revision Petition is allowed and the petitioners are permitted to mark the documents, received from the primary co-operative bank, before the trial Court and the trial Court is directed to dispose of the Appeal Suit in A.S.No.37 of 2013, after marking the documents, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order: Yes/No

12.02.2021

C.R.P.(N.P.D).No.858 of 2016

G.K.ILANTHIRAIYAN.J,

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To
The Sub Court, Cheyyar.



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