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C.R.P.(PD).Nos.2827 and 2828 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).Nos.2827 and 2828 of 2021
and
C.M.P.No.20513 of 2021

1.A.Pattammal

2.A.Chittibabu

3.Jayanthi

4.A.Vijayan

.. Petitioners in both CRPs

Vs.

Dhanraj

.. Respondent in both CRPs

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal orders dated 27.09.2021 passed in I.A.Nos.2 and 1 of 2021 in O.S.No.115 of 2017 on the file of the Subordinate Judge at Tiruvallur and to allow the said petitions with the costs throughout.

For Petitioners : Mr.M.V.Seshachari in both the CRPs



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COMMON ORDER

WEB COPY Challenge in these Revisions is to the order dismissing the applications to re-open the evidence and to issue witness summons to the Village Administrative Officer directing him to produce the Field Measurement Book.

2. These applications were filed by the plaintiffs in OS.No.115 of 2017. The suit was for declaration of title of the plaintiffs to an extent of 36 links East-West and 42 links North-South in S.No.592/3 and for a permanent injunction restraining the defendant from interfering with her possession.

3. The 1st plaintiff claims title to the property as the wife of one Mr.Anandan, who had got the property at a partition that took place on 30.11.1978. It is the further claim of the plaintiffs that the said Anandan had sold a portion of the property and he has retained the remaining portion. The retained portion is the suit property. The suit was resisted by the defendant contending that the claim of the plaintiffs that Anandan retained certain portion is incorrect. According to him, Anandan had parted with the entire property that was allotted to him.



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4. After trial, when the suit was posted for arguments, the plaintiffs came up with the instant application seeking summons to the Village Administrative Officer for production of the Field Measurement Book. This was opposed contending that the application itself is belated and earlier attempt made by the plaintiffs to have Commissioner appointed was rejected by the Court. The trial Court upon consideration of the materials on record and the submissions of the counsel on either side, accepted the defence dismissed the application as belated.

5. Mr.M.V.Seshachari, learned counsel appearing for the petitioners would vehemently contend that the rejection of the application would amount to denial of opportunity to let in evidence. He would also submit that a party to the proceedings should be given a fair opportunity to place best evidence before Court. He would add that the trial Court erred in concluding on merits of the claim in an application for issuance of summons.

6. I have considered the submissions of the counsel. The trial Court had dismissed the application on the ground that it is belated and on the ground that earlier attempt made to have the Commissioner appointed to



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prove the very same claim by the plaintiffs was rejected.

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7. Another limb of contention of Mr.M.V.Seshachari is that there is more land available in the survey number than that is reflected in the documents. Unfortunately there is no support in the form of pleadings for the said contention of the counsel.

8. I am therefore unable to fault the trial Court for having dismissed the applications. The Revisions therefore fail and are accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

21.12.2021

dsa

Index : No

Speaking order

To

The Subordinate Judge, Tiruvallur.



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R.SUBRAMANIAN, J.

dsa

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