



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(MD)Nos.1025 and 1026 of 2020 and
CMP(MD)No.6588 of 2020

Vellaichamy Nadar
Represented by his Power Agent and his son
Alagarsamy ... Petitioner/Petitioner/Plaintiff
in both petitions

vs.

1.Thangavel
2.Chinnathambi ...Respondents/Respondents /
Defendants in both petitions

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, to call for the records of the fair and decreetal order dated 06.07.2020 passed in I.A.Nos.214 & 215 of 2019 in O.S.No.81 of 2014 on the file of the District Munsif Court Cum Judicial Magistrate, Thiruvadanai and set aside the same.

For Petitioner : Mr.T.Balaji
(Both Revisions)

COMMON ORDER

These Civil Revision Petitions have been filed to call for the records of the fair and decreetal order dated 06.07.2020 passed in I.A.Nos.214 & 215 of 2019 in O.S.No.81 of 2014 on the file of the District Munsif Court Cum Judicial Magistrate, Thiruvadanai and set aside the same.

2.The learned counsel for the petitioner would submit that the petitioner has filed the suit in O.S.No.81 of 2014 as power agent of his father before the District Munsif Court Cum Judicial Magistrate, Thiruvadanai against the respondents herein for declaration to declare the suit properties belong to the petitioner and for consequential permanent injunction and for other reliefs. The learned counsel further submitted that the respondents herein based on the wrong patta granted in their favour, have claimed right over the suit property. The property in the western side has been



purchased by the petitioner's son Pandi and the eastern side of the property was allotted to Shanmugam, the brother of the petitioner. The said property was purchased by the petitioner on 21.09.1980 and the petitioner is the owner of 12 cents of land. Subsequently, the petitioner's son has purchased another 6 cents of land from one Sakthivel by sale deed dated 11.10.2006, hence, the petitioner is entitled for 18 cents. The learned counsel for the petitioner further submitted that in order to prove the entire extent belongs to the petitioner and to prove the physical features of the property, the petitioner filed the Interlocutory Applications in I.A.Nos.214 and 215 of 2019 for reopening the plaintiff side evidence and for appointment of Advocate Commissioner. After hearing the case, the learned District Munsif had dismissed the said applications on the ground that the petitions have been filed belatedly. Aggrieved over the same, the present Civil Revision Petitions have been filed.

3.Heard the learned counsel for the petitioner and perused the materials available on record.

4.Perusal of record shows that the suit has been filed in the year 2014 for declaration to declare the suit properties belong to the petitioner and for consequential permanent injunction and for other reliefs. In the said suit, trial was commenced as early as on 31.10.2014 and the plaintiff side evidence was closed on 29.11.2017 and the defendants side evidence was closed on 09.03.2018, thereafter, when the suit was posted for arguments, the plaintiff was not ready for the arguments. At this stage, the petitioner/plaintiff filed I.A.Nos.233 and 234 of 2018 seeking to mark the documents and to reopen the case where the learned District Munsif had dismissed the said applications on 19.06.2019. Thereafter, the main case was posted for petitioner's side arguments on various dates, but, the petitioner did not argue the case. In this circumstances, the petitioner filed the applications in I.A.Nos. 214 of 215 of 2019 for reopening the plaintiff side evidence and for appointment of Advocate Commissioner to inspect the suit property and file the report regarding the physical features and four boundaries of the suit property. Considering the facts and circumstances of the case, this Court is of the view, though the suit has been posted for petitioner's side arguments on various dates, the petitioner has not argued the case. While pending argument, the present petitions have been filed by the petitioner for reopening the plaintiff side evidence and for appointment of Advocate Commissioner is only with an intention to drag on the proceedings in the suit. Though the above I.As have been dismissed as early as on 19.06.2019, the present Civil Revision Petition has been filed nearly after 15 months. The learned District Munsif has rightly dismissed the said applications in I.A.Nos.214 and 215 of 2019 in O.S.No.81 of 2014 where I do not find any infirmity.



5. Accordingly, these Civil Revision Petitions are dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

Msa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The District Munsif Cum Judicial Magistrate
Thiruvadanai

+1 CC to Mr.A.SRINIVASAN, Advocate (SR-4172[F] dated 10/02/2021)

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