



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.1582 of 2021

and

C.M.P. (MD) No.8645 of 2021

Josephine Rebekkal @ James Mary ... Petitioner

vs.

Kalaimani ... Respondent

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 08.11.2018 in I.A.No.349 of 2018 in O.S.No.360 of 2018 pending on the file of the learned Additional District Munsif (Incharge), Lalgudi.

For Petitioner : M/s.V.Sujatha

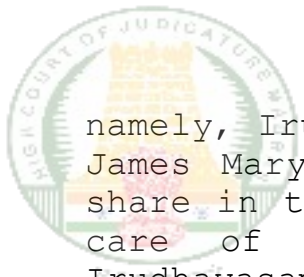
ORDER

The plaintiff, who is the revision petitioner before this Court, is challenging the order dated 08.11.2018 of the learned Additional District Munsif (Incharge), Lalgudi, in I.A.No.349 of 2018 in O.S.No.360 of 2018, in and by which, the learned Judge had dismissed the amendment petition filed by the petitioner/plaintiff.

2.The facts in brief, which are necessary for disposing of the above Civil Revision Petition, are herein below narrated:-

3.The petitioner herein had filed a suit in O.S.No.360 of 2018 for bare injunction restraining the respondent from interfering with her enjoyment of the suit property by putting up a construction or in any other fashion obstructing her enjoyment. The suit schedule was a site with building comprised in Old.S.No.125/part New S.No.197/10 and S.No.197/11 in Laldudi Taluk, Sirumayangudi Village, Trichy District.

4.The case of the petitioner was that this property belonged to one Sandhanammal, W/o.Sinnappan. Sinnappan and Sandhanammal had two daughters, namely, James Mary and Susai Mary and one son,



namely, Irudhayasamy, who was the father of the petitioner herein. James Mary had executed a Will dated 31.12.1968 bequeathing her share in the property in favour of the petitioner, who was taking care of her. After the death of Sinnappan, Sandhanammal, Irudhayasamy and James Mary, the petitioner was in enjoyment of the property bequeathed to her under the Will. The suit property is the 5th item of property in the Will. It was the case of the petitioner that the respondent, who had no right to the property, was trying to interfere with her possession and therefore, the suit.

5.The respondent had filed a written statement *inter alia* contending that the suit was filed on 17.09.2018, thereafter, the petitioner has come forward with an application in I.A.No.349 of 2018 stating that she was unaware that her property situate in S.No.197/11 had been subdivided as S.No.197/15, in respect of which, patta had been granted in favour of the respondent. She would therefore seek to have an amendment to include S.No.197/15 in the suit schedule property.

6.The respondent had filed a counter *inter alia* contending that the petitioner was allotted patta in respect of an extent of 00054 sq.mts. in S.No.197/10 as early as in the year 1992. As regards the property comprised in S.No.197/11, the same belonged to the Revenue Authorities and the same had been subdivided as S.No.197/15 to an extent of 00054 sq.mts., for which, the defendant had been granted patta. The remaining extent continues to remain as a vacant Natham. In fact, the petitioner was very much aware about the subdivision as she had already raised a dispute before the Tahsildar, before whom she had given a petition. The Revenue Divisional Officer after an enquiry had held that an extent of 00054 sq.mts., in S.No.197/11 belonged to the respondent and patta was granted in her favour. This extent was subdivided as S.No.197/15. Therefore, even prior to the filing of the suit in O.S.No.360 of 2018, the orders had been passed subdividing the property. The petitioner was fully aware about the same. Therefore, the contention that she was not aware of it and come to know about it only recently is nothing but an entirely false statement. Therefore, the respondent sought to have the application dismissed.

7.The learned Additional District Munsif (In-charge), Lalgudi after hearing both parties dismissed the above application stating that the petitioner has not produced any document to show her ownership on S.No.197/11 and could therefore not seek to have the amendment granted. The learned Judge also observed that the petitioner has not given any details as to the extent in S.No.197/15 in respect of which she was claiming an injunction. Since the amendment sought for was rather vague, the learned Judge



had dismissed the said petition. Challenging the same, the plaintiff is before this Court.

8. Heard the learned counsels on either side.

9. Perusal of the records would indicate that even prior to the filing of the suit, the petitioner was aware about the subdivision of S.No.197/11 as she had herself filed a complaint before the Revenue Authorities. Thereafter, the Revenue Divisional Officer has conducted an enquiry pursuant to which patta was granted to the respondent with respect to an extent of 0054 sq.mts., in an extent of 00500 sq.mts., in S.No.197/11 and this 00054 sq.mts., alone has been subdivided as S.No.197/11. The petitioner has not described the extent of land enjoyed by her in S.No.197/11 to prove that she has been in enjoyment of the entire extent. In fact, the extent of land comprised in S.Nos.197/10 or 197/11 has not been described in the suit schedule. Therefore, the amendment as sought for has been rightly rejected by the learned District Munsif (In-charge), Lalgudi. I do not find any reason to interfere with the judgment of the learned Additional District Munsif (Incharge), Lalgudi, in I.A.No.349 of 2018 in O.S.No.360 of 2018 dated 08.11.2018.

10. In fine, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

mm

To

The Additional District Munsif,
Lalgudi.

C.R.P. (MD) No.1582 of 2021
17.11.2021

RK(17/12/2021) 3P 2C