



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2021

CORAM

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P(MD) No. 1842 of 2014

and

M.P(MD) No.1 of 2014

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Gangammal

... Petitioner/Petitioner/Defendant

Vs.

Manthiram

...Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 27.06.2014 made in I.A.No.555 of 2014 in O.S.No.61 of 2012 on the file of the District Munsif Court, Kovilpatti.

For Petitioner : PT.S.Narendra Vasan
For Respondent : No Appearance

O R D E R

The Civil Revision Petition has been filed against the order dated 27.06.2014 made in I.A.No.555 of 2014 in O.S.No.61 of 2012 on the file of the District Munsif Court, Kovilpatti, dismissing the petition filed by the petitioner to summon the Tahsildar, to be present along with original documents in respect of the patta issued in favour of the petitioner.

2.The learned counsel for the petitioner would submit that the petitioner is the defendant in O.S.No.61 of 2012 on the file of the District Munsif Court, Kovilpatti. The suit had been filed by the respondent / plaintiff seeking for a bare injunction. The respondent / plaintiff had filed the suit, based on a patta alleged to have been issued in favour of his mother and that the respondent / plaintiff had claimed possession based on the alleged patta issued in favour of him by the Tahsildar, Kovilpatti.

3.The petitioner / defendant had filed a written statement specifically denying the issuance of patta in favour of the respondent / plaintiff and had objected stating that the patta was actually granted in favour of the petitioner / defendant and that due to certain discrepancies in the Revenue Department the name of the respondent / plaintiff was wrongly included and on a complaint filed by the petitioner / defendant to the Tahsildar, Kovilpatti, the enquiry was conducted by the Village



Administrative Officer of Aasoor Village and that the name of the respondent/plaintiff was deleted as per the revenue records and the petitioner finding it expedient in the interest of justice that the Tahsildar had to be examined along with the revenue records had filed the petition to summon the Tahsildar.

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4.The respondent / plaintiff had filed a counter stating that the petition was filed belatedly at a later stage and that the petitioner has not taken a specific plea in the written statement. Despite the petitioner /defendant making a specific plea in paragraph No.7 of the written statement, the Trial Court ignoring the same, taking into consideration the submissions made in the counter filed by the respondent/plaintiff had dismissed the petition.

5.The learned counsel for the petitioner would further submit that it is a suit for injunction and the respondent / plaintiff had claimed possession based on the patta and it is necessary that the Tahsildar has to be examined to speak about the wrong entries in the records and the subsequent cancellation at the behest of the petitioner / defendant. The petitioner was not reason for the delay and only after the plaintiff's side evidence was over, the petitioner had to file the petition seeking to summon the Tahsildar and thereby, he would seek to set aside the order and prayed for allowing the I.A.No.No.555 of 2014.

6.The respondent has been served with notice and he has entered appearance through his counsel, despite several opportunities given, there is no representation for the respondent.

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

8.The suit has been filed by the respondent / plaintiff for bare injunction and he has claimed possession based on the alleged patta issued to him. It is the case of the petitioner / defendant that the patta was wrongly given to the respondent and that on the complaint given by the petitioner to the Village Administrative Officer, Aasoor Village, the wrong entry has been corrected and the patta has been given in favour of the petitioner / defendant. This Court is of the opinion that the Tahsildar is a necessary witness to speak about the same and the trial Court without properly looking into the requirement of examination of the witness has dismissed the petition.

9.In the result, the Civil Revision Petition stands allowed and the order dated 27.06.2014 made in I.A.No.555 of 2014 in O.S.No.61 of 2012 on the file of the District Munsif Court,



Kovilpatti, is set aside and the I.A.No.555 of 2014 in O.S.No.61 of 2012 is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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

1.The District Munsif Court,
Kovilpatti.

+1 CC to M/s.PT.S.NARENDRAVASAN, Advocate (SR-33308[F] dated 29/10/2021)

C.R.P (MD) No.1842 of 2014
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