



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2021

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THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.R.P. (MD) (PD)Nos.565 and 566 of 2014

1.Mamangam
2.Nagarajan

: Petitioners/Plaintiffs in both cases

Vs.

1.Dhanapathi
2.Bharathi

3. The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

4. The Revenue Divisional Officer,
Revenue Divisional Office,
Thanjavur.

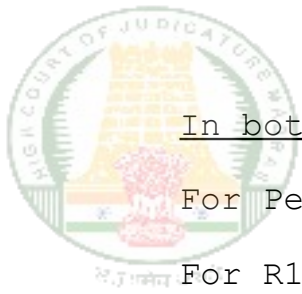
5. The District Revenue Officer,
District Court Campus, Thanjavur.

6. The District Collector,
Thanjavur District,
Thanjavur.

: Respondents/Defendants in both cases

PRAYER in C.R.P.(MD)No.565 of 2014:- Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records of the learned District Munsif-cum-Judicial Magistrate, Orathanadu, made in I.A.No.24 of 2014 in O.S.No.22 of 2010 and to set aside the fair and decretal order, dated 03.02.2014.

PRAYER in C.R.P.(MD)No.566 of 2014:- Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records of the learned District Munsif-cum-Judicial Magistrate, Orathanadu, made in I.A.No.25 of 2014 in O.S.No.22 of 2010 and to set aside the fair and decretal order, dated 03.02.2014.



In both Cases

For Petitioner

:Mr.M.Viji

for Mr.S.Deenadhayalan

For R1

:No appearance

For R2

:Mr.G.Karnan

For R3 to R6

:Mr.V.R.Shanmuganathan

Special Government Pleader

COMMON ORDER

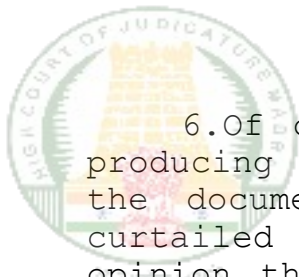
These two revisions are filed against the orders of the trial Court, namely, the District Munsif-cum-Judicial Magistrate Court, Orathanadu, dismissing the applications in I.A.Nos.24 and 25 of 2014 seeking reopening of the evidence of the defendants and to recall DW-4.

2.The suit is one for permanent injunction restraining the defendants from interfering with the plaintiffs' possession and for other reliefs regarding the mutation of revenue records. The same is being resisted by the defendants on the contention that the suit property is a pathway leading to burial ground in the village and the authorities have cancelled the Natham Patta, that was granted to the plaintiffs, since it was discovered that the property is actually a pathway, by an order, dated 12.03.2010.

3.When the suit was posted for arguments, the plaintiffs came up with the above two applications seeking to produce the field measurement plan of S.Nos.434/75 and 434/76 through DW-4, who had issued the said plan. These applications were resisted by the defendants contending that it is only to delay the disposal of the suit, which is posted for arguments. The learned trial Judge accepted the defence and dismissed the applications.

4.I have heard Mr.Viji, learned Counsel for Mr.S.Deenadhayalan, learned Counsel for the petitioner, Mr.G.Karnan, learned Counsel for the second respondent and Mr.V.R.Shanmuganthan, learned Special Government Pleader for R3 to R6.

5.Considering the nature of suit and the reliefs claimed, I am of the opinion that the plaintiffs should be given an opportunity to produce the documents in question, since it is their claim that these documents would show that the suit property was never treated as a pathway to the burial ground. After all, the documents that are sought to be produced are public documents and it cannot be stated that these documents have been created for the purpose of the suit.



6.Of course, there is delay on the part of the plaintiffs in producing those documents. The right of the plaintiffs to produce the documents and cross examine the defence witness cannot be curtailed only because of the delay. I am, therefore, of the opinion that the trial Court should have allowed the applications and proceeded after marking the documents. If the said procedure had been adopted by the trial Court, substantial time would have been saved and the parties would not have been forced to approach this Court by way of revision, which has also caused further delay of six years in disposal of the suit, which is in argument stage. Hence, the orders of trial Court are set aside and the revisions are allowed. The evidence of defendants is reopened and DW-4 is recalled. DW-4 is required to appear before the trial Court on 01.02.2021. The plaintiffs shall cross examine and mark the documents on the same day and the trial Court can give indulgence of two adjournments for any cross examination by the contesting defendants. The trial Court is directed to dispose of the suit within a period of three months from the date of completion of evidence of DW-4 positively and report the said disposal to this Court. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The District Munsif-cum-Judicial Magistrate,
Orathanadu.
2. The District Collector,
Thanjavur District, Thanjavur.
3. The District Revenue Officer,
District Court Campus, Thanjavur.
4. The Revenue Divisional Officer,
Revenue Divisional Office, Thanjavur.
5. The Tahsildar, Orathanadu Taluk,
Thanjavur District.

C.R.P.(MD)Nos.565 and 566 of 2014

06.01.2021

MJ(CO)

CS(20.01.2021) 3P 6C

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