



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Third day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice N.SATHISH KUMAR

CMP(MD) No.3787 of 2018
IN
SA(MD) No.239 of 2012

1 THE STATE OF TAMIL NADU
REP. BY ITS DISTRICT COLLECTOR,
TIRUCHIRAPPALLI.

2 THE SUB COLLECTOR, KARUR

3 THE TAHSILDAR, MANAPPARAI.

... PETITIONERS/ APPELLANTS

Vs

1 SHENBAGAVALLI AMMAL (DIED)

2 K.SUNDARAMBAL (DIED)

3 K.PANDURENGAN,

4 K.PADMAVATHI

5 K.VENKATACHALAM,

6 K.VENUGOPAL

7 K.SHANTHI

8 BALAKRISHNAN

... RESPONDENTS/RESPONDENTS

(R8 is brought on record as LR of the deceased R2 vide court order dated 05.01.2021 made in CMP(MD)No.6130 of 2020 in SA(MD)No.239 of 2012 by NSKJ.

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to receive the additional documents and mark the same as evidence in the above SA(MD)No.239 of 2012.

PRAYER IN SA(MD) No.239 of 2012:

To prefer the Memorandum of Grounds of Second Appeal against the judgment and decree dated 30.07.2010 made in A.S.No.146 of 2008 on the file of the Principal Sub Court, Tiruchirappalli, confirming the judgment and decree dated 31.10.1994 made in O.S.No.168 of 1990 on the file of the District Munsif Court, Manapparai.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.CHELLAPANDIAN, Additional



Advocate General assisted by Mr.J.GUNASEELAN MUTHIAH, Additional Government Pleader for the petitioners and of Mr.H.LAXMI SHANKAR, Advocate for the Respondents 3 to 8, the court made the following order:-

This application is filed to receive the additional documents and mark the same as evidence in the above Second Appeal.

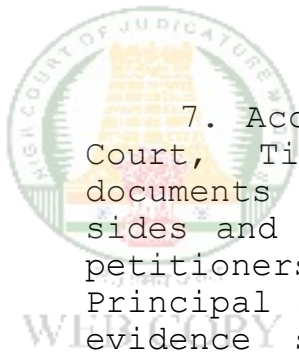
2. It is the submission of the learned Additional Government Pleader appearing for the petitioners that the documents, now sought to be filed, were not traceable as the records were mingle with other records and therefore, the above documents could not be filed before the trial Court as well as the first appellate Court. He further submits that those documents are necessary for adjudication and hence, prays for allowing of this application.

3. This application has been opposed by the respondent that this documents are self serving documents and those documents cannot be marked after 20 years of the institution of the suit.

4. This Court heard the submission of the learned counsel appearing on both sides and perused the materials.

5. The suit is filed for declaration on the basis of adverse possession as against the Government. The suit has been decreed. As against which, first appeal was filed. The first appellate Court has also dismissed the appeal suit and confirmed the decree passed by the trial Court. As against which, the present Second Appeal is filed. Though the additional documents cannot be permitted as a matter of right, unless the party established before the Court as to the ingredients and reasons for non-production of such documents at the earliest point of time, it cannot be marked. Though in the affidavit except contending that those documents could not be traceable during trial and have been gathered only recently and though it is not strictly proved, having regard to the nature of the documents now sought to be filed, which are only public documents and some of the writ orders also came to be passed subsequent to the suit, whether those writ orders have some relevance or not, cannot be gone into at this stage and can be decided only during trial and other documents like B memo, Register and entry of the public records sought to be filed to prove that the property is a Government property can be taken into consideration.

6. In such view of the mater, this Court is of the view that though the petitioners have not established the ingredients strictly to receive the additional documents, this Court is of the view that these documents would infact, enable this Court to arrive at a just decision and therefore, these documents are required to be brought on record as additional evidence.



7. Accordingly, this petition is allowed and the Principal Sub Court, Tiruchirapalli is directed to receive the additional documents and record the evidence after giving opportunity to both sides and forward the same to this Court. For such exercise, the petitioners and respondents are directed to appear before the Principal Subordinate Court, Tiruchirappalli on 22.03.2021 and the evidence shall be completed within two weeks from that day. Thereafter, the respondents can also adduce any rebuttable evidence.

8. After receiving the same, Registry is directed to post the appeal on 15.04.2021 for final hearing.

sd/-
23/02/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRINCIPAL SUBORDINATE JUDGE,
TIRUCHIRAPPALLI

2 THE DISTRICT MUNSIF, MANAPPARAI.

COPY TO:

1 THE REGISTRAR(JUDICIAL) (I/C)
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2 THE SECTION OFFICER, VR SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CMP (MD) No.3787 of 2018
IN
SA(MD) No.239 of 2012
Date :23/02/2021

vsn
MS/PN/SAR-3/04.03.2021/3P.5C