



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD)No.1996 of 2015

and

M.P. (MD)No.1 of 2015

WEB COPY

- 1.Rathinasabapathy Adaviar
- 2.Oppilal Rajam Ammal
- 3.Muthulakshmi Ammal
- 4.Ravisankar
- 5.Sankarammal
- 6.Annamalaiammal
- 7.Lakshmi
- 8.Shanthi

... Petitioners/Petitioners/Plaintiffs

Vs.

Jeyaraj (Died)

- 1.Mangayarkkarasi @ Grace Theories Annal
- 2.Samuvel Gnanamuthu
- 3.Bowline

... Respondents/Respondents/Defendants

Prayer:- This Civil Revision Petition filed under Section 227 of Constitution of India, to set aside the order dated 24.08.2015 made in I.A.No.647 of 2015 in O.S.No.273 of 1996 on the file of the District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District.

For Petitioner : Mr.J.Parekhkumar

For Respondents : Mr.V.Meenakshisundaram

ORDER

This Civil Revision Petition has been filed to set aside the decree passed in I.A.No.647 of 2015 in O.S.No.273 of 1996 on the file of the District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District.

2.The learned counsel for the petitioner would submit that the petitioner is the plaintiff in O.S.No.273 of 1996. He filed the suit for declaration and injunction specifically for recovery of possession. During the trial, the petitioner filed an application in I.A.No.647 of 2015 to summon the Village Administrative Officer, North Veeravanallur, for producing the documents and evidences. The said petition was dismissed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, by order



dated 24.08.2015. Challenging the said dismissal, the petitioner filed the present revision petition before this Court.

3. The learned counsel for the petitioner would submit that the large extent of land originally belonged to his ancestors and subsequently, they sold some portions of the said land. Taking advantage of that the defendants occupied the entire piece of land. Therefore, they filed a suit for declaration and permanent injunction. During the pendency of the suit, the defendants approached the Tahsildar, Ambasamudram Taluk, for recovery of possession. The Tahsildar, Ambasamudram Taluk, without giving notice to the petitioner, grated patta to the defendants for the land which belong to the petitioners. Therefore, the petitioner sought to examine the Village Administrative Officer with relevant records.

4. The learned counsel for the petitioners would further submit that certified copy of the proceedings for issuance of patta will not be possible. If the Village Administrative Officer comes with proceedings then only the petitioner can establish the facts. The learned District Munsif has failed to consider the same and dismissed the petition. Therefore, the order of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, is liable to be set aside and the present revision petition may be allowed.

5. The learned counsel for the respondents would submit that all the documents sought for by the petitioners are public documents and they can very well obtain certified copies and can be produced before the Court and establish the facts and further all the documents, as sought for by the petitioners, are irrelevant to the case. Therefore, the learned District Munsif has rightly dismissed the application.

6. Heard the learned counsel on either side and perused the materials on record.

7. Admittedly the petitioners filed a suit against the respondents, originally for declaration and permanent injunction. Subsequently, they filed an application for amendment of the plaint as the suit is for recovery of possession also. During pendency of the suit, the petitioners herein / the plaintiffs in the suit, filed an interlocutory application, seeking a direction to the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, to send summon to the Village Administrative Officer to produce the relevant documents and give evidence. The said petition was dismissed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi.

8. A reading of the order would go to show that the petitioner



filed the petition in I.A.No.647 of 2015, mainly to direct the Village Administrative Officer to bring relevant documents. It is a settled proposition that the public document can be proved by producing a certified copy. The original documents need not be called for, unless circumstances warrants. In this case, the petitioners mainly contended that without giving notice, they issued change of patta. For challenging the change of patta, the appellate remedy is available before the Revenue Divisional Officer. The petitioners have not produced any document that he has approached the Revenue Divisional Officer for the relief. The petitioners have filed a suit for declaration and injunction, subsequently, the amendment for recovery of possession.

9. Therefore, the change of patta is nothing to do with establishing the title of the petitioners. Therefore, the petitioners has to prove their case. The petitioners have to establish their title on the date of filing of the suit, which is not available in the records produced by the petitioners. The defendants encroached the said portions, for which patta proceeding is not necessary. The petitioner can establish his title, with his own documents and if necessary, by obtaining certified copies of the public document. Therefore, the trial Court had rightly dismissed the said petition and this Court does not find any infirmity or illegality or perversity in the order passed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District. There is no merit in this Civil Revision Petition and this petition is liable to be dismissed.

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

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

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

The District Munsif cum Judicial Magistrate,
Cheranmahadevi, Tirunelveli District.

WEB COPY

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-39927[F] dated 22/12/2021)

+1 CC to M/s.J.PAREKH KUMAR, Advocate (SR-40036[F] dated 22/12/2021)

C.R.P. (MD) No.1996 of 2015
21.12.2021

PS (CO)

SB(12.01.2022) 4P 4C