



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.2000 of 2021
and
C.M.P. (MD) No.10757 of 2021

S.Sureshkumar

.. Petitioner/Respondent/
Plaintiff

-vs-

1.Kurunathan
2.Chitra

.. Respondents/Respondents/
Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 21.10.2021 in I.A.No.486 of 2021 in O.S.No.183 of 2014 passed by the District Munsif, Aranthangi.

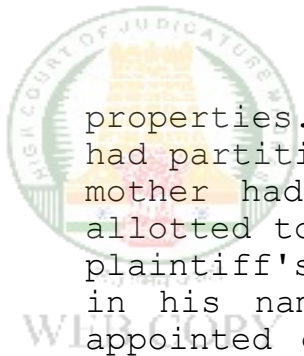
For Petitioner : Mr.K.Baalasundharam

ORDER

The plaintiff is before this Court challenging the order dated 21.10.2021 passed by the learned District Munsif, Aranthangi, dismissing his application seeking to reopen the evidence so as to enable him to examine his vendors in title as witnesses on his side.

2.The facts in brief, which are necessary for the disposal of this Civil Revision Petition, are hereinbelow narrated:-

2.1.The petitioner herein had filed a suit in O.S.No.183 of 2014 for a bare injunction restraining the respondents/defendants from interfering with his peaceful possession and enjoyment of the suit property. The revision petitioner had claimed a right to the suit property on the basis of a registered Sale Deed dated 05.04.2010 executed by M.Kalai Selvi and S.Gomathi through their Power Agent S.Murugesan. The petitioner's vendors, had purchased the property under a registered Sale Deed dated 02.11.2007. They had got the joint patta mutated in their name in Patta No.3621. Mr.S.Manokaran, the predecessor in title of the said Kalai Selvi and Gomathi, was in possession of other properties apart from the suit



properties. He and his family members which included one Gurunathan had partitioned the properties on 14.11.2002. Gurunathan's wife and mother had also joined in the partition. The suit property was allotted to the share of Manoharan, who had sold the property to the plaintiff's vendors. The plaintiff had also got the patta mutated in his name on 17.03.2011 in Patta No.3740. The plaintiff had appointed one S.Murugan as the Power Agent as he was not able to manage the affairs of the suit property. The 2nd defendant on 03.09.2014, had attempted to trespass into the suit property, which was prevented by the plaintiff. However, since the threat was continuing, the above referred suit came to be filed.

3.The 2nd defendant had filed a written statement denying the allegation contained in the plaint. The 2nd defendant would submit that the property in the partition had been allotted to the father of the 1st defendant, who is her husband and on 23.07.2009, the 1st defendant had transferred the property in the name of the 2nd defendant by way of a gift deed and therefore, sought for the dismissal of the suit. She would further submit that after the evidence in the suit had been completed and when the matter was posted for arguments, the plaintiff came forward with an application to reopen the evidences so as to enable him to examine his vendors as witnesses.

4.The respondents/defendants had resisted the above application *inter alia* contending that the application is nothing but an attempt to delay the proceedings and further, there was no necessity to examine the said vendors in the suit.

5.The learned District Munsif, Aranthangi, by order dated 21.10.2021, was pleased to dismiss the above application. The learned Judge had taken note of the fact that the evidence of the plaintiff had been concluded on 21.02.2019 and thereafter, the evidence of defendants had also concluded and the matter was listed for arguments at which point of time, the plaintiff has come forward with the said application. Aggrieved by the said order, the petitioner is before this Court.

6.Heard the learned counsel on behalf of the petitioner/plaintiff.

7.This Court is of the opinion that admittedly, the suit is one for a bare injunction where the plaintiff has to only prove that he is in lawful possession of the property. The plaintiff and the defendants have closed their respective evidence and the matter is at the stage of arguments. The Sale Deeds have already been marked during the evidence. The examination of the plaintiff's predecessors in title is totally unnecessary to decide the suit for injunction. The suit is not one for a declaration. Therefore, I do not find any reason to interfere with the order dated 21.10.2021 passed by the learned District Munsif, Aranthangi in I.A.No.186 of



2021 in O.S.No.183 of 2014 and the same is concerned.

8. Accordingly, this Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

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, Aranthangi.

2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P. (PD) (MD) No.2000 of 2021

Dated: 14.12.2021

_RD(21.01.2022) 3P 3C