



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2021

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)Nos.1983 and 1984 of 2019

and

CMP(MD).No.10221 of 2019

1. R.Sundar Rajan
2. Smt.Rajammal

... Petitioners /Petitioners /
Plaintiffs
(in both CRPs)

Vs.

1.R.Ramasubbu
2.R.Renganathan

...Respondents/Respondents/
Defendants
(in both CRPs)

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order and decree made in I.A.Nos.1 and 2 of 2019 in O.S.No.314 of 2010 dated 08.07.2019, on the file of the Additional Subordinate Court, Srivilliputhur.

For Petitioners : Mr.M.Thirunavukkarasu
(in both CRPs)

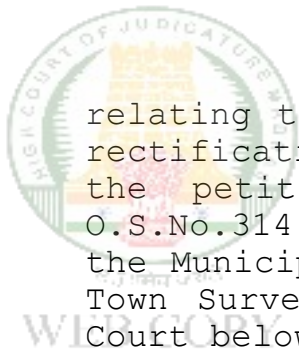
For Respondents : No Appearance for R1 & R2
(in both CRPs)

COMMON ORDER

These Civil Revision Petitions are filed to set aside the order dated 08.07.2019, made in I.A.Nos.1 and 2 of 2019 in O.S.No.314 of 2010 on the file of the learned Additional Subordinate Judge, Srivilliputhur.

2. The revision petitioners are the plaintiffs in the suit.

3. Learned counsel for the petitioners-plaintiffs would submit that the revision petitioners herein have filed a suit in O.S.No.314 of 2010 against the respondents-defendants for the relief of declaration, permanent injunction, mandatory injunction and recovery of possession, on the file of the learned Additional Subordinate Court, Srivilliputhur. The petitioners-plaintiffs purchased the suit property measuring an extent of 0.0430.0 sq. mt., vide registered sale deed dated 31.05.2010. The petitioners came to know that a mistake has been committed in the Town Survey register



relating to the extent of the suit property. In order to prove the rectification with regard to the measurement of the suit property, the petitioners-plaintiffs filed I.A.Nos.1 and 2 of 2019 in O.S.No.314 of 2010 to send survey register and to issue summon to the Municipal Officer to give evidence in respect of the above said Town Survey Register. The said applications were dismissed by the Court below. Aggrieved over the same, these Civil Revision Petitions have been filed by the petitioners-plaintiffs.

4. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice has been issued to the respondents, none appeared in the last occasion and even today.

5. Perusal of record shows that the petitioners-plaintiffs purchased the suit property measuring an extent of 0.0430.0 sq. mt., vide registered sale deed dated 31.05.2010. It is the contention of the petitioners-plaintiffs that after subdivision, patta was transferred to the plaintiff's name, but the extent of the suit property has been wrongly mentioned as 0.04.03.5 sq.mt., instead of 0.0430.0 sq.mt., in the Town Survey register. Only at the time of trial, the petitioners-plaintiffs became aware that the extent of the property was wrongly mentioned as 0.04.03.5 sq.mt., in terms of the register. Therefore, the petitioners-plaintiffs submitted application before the Commissioner, Srivilliputhur Municipality to rectify the mistake in respect of the correct measurement of the suit property. Thereafter, upon verifying the documents, corrections were also carried out by the Commissioner, Srivilliputhur Municipality vide order dated 12.12.2018. Thereafter, in order to prove the said mistake with regard to the measurement of the suit property, the petitioners-plaintiffs filed I.A.Nos.1 and 2 of 2019 in O.S.No.314 of 2010 to send Town Survey register relating to T.S.No.394/6A2 and to issue summon to the Municipal Officer to give evidence in respect of the above said Town Survey register. The said applications came to be dismissed by the trial Court by holding that the petitioners-plaintiffs could obtain certified copy of Town Survey Register.

6. The grievance of the petitioner is that the Town Survey is not as it is in original. Rectification has been taken place and therefore, only by summoning the authority and marking the documents namely Town Survey register relating to the suit property, the petitioners-plaintiffs could prove that the mistake was done and correction was made by the authorities and therefore, the petitioners had filed the above applications. In my considered opinion, the applications filed as mentioned above are only for marking the documents which has been rectified in respect of the Town Survey register relating to T.S.No.394/6A2 and therefore, the learned Judge ought to have allowed the applications.

7. Accordingly, the order passed by the trial Court dated 08.07.2019 in I.A.Nos.1 and 2 of 2019 in O.S.No.314 of 2010, are set



aside. These Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

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/ /2021
Sub Assistant Registrar(CS)

To

1. The Additional Subordinate Court,
Srivilliputhur.

2.The Record Keeper, (2C)
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-7792[F] dated
01/03/2021)

C.R.P (MD)Nos.1983 and 1984 of 2019
01.03.2021

SJ(CO)
KB(12.03.2021) 3P 5C