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C.R.P(PD). Nos.430 to 432 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

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THE HONOURABLE **MS.JUSTICE P.T. ASHA**

C.R.P(PD). Nos.430 to 432 of 2022

and

C.M.P. No.2206 of 2022

A.Murugesan

.. Petitioner in all C.R.Ps.

Vs

1. M.Raju

Pappathi (Died)

2.Sathiskumar

3.Menaka

.. Respondents in all C.R.Ps.

Common Prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the Fair and Decreetal order dated 02.12.2021 made in I.A.Nos.4 to 6 of 2021, respectively, in O.S.No.228 of 2004 on the file of District Munsif Court at Paramathy.

For Petitioner : Mr.T.L.Thirumalaisamy
in all C.R.Ps.

COMMON ORDER

The plaintiff is the petitioner in the above revision petitions.

C.R.P.No.430 of 2022 is filed challenging the order in I.A.No.4 of 2021,



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C.R.P.No.431 of 2022 is filed challenging the order in I.A.No.5 of 2021 and C.R.P.No.432 of 2022 is filed challenging the order in I.A.No.6 of 2021. The above interlocutory applications have been filed in the suit in O.S.No.228 of 2004 on the file of the District Munsif Court, Paramathy. I.A.No.4 of 2021 is filed to re-open the plaintiff's side evidence, I.A.No.5 of 2021 is filed to re-call the revision petitioner/plaintiff as P.W.1 and I.A.No.6 of 2021 is filed to condone the delay in producing the documents and to receive and mark those documents as exhibits.

2. The suit in O.S.No.228 of 2004 was filed by the plaintiff for declaration of his title and consequential injunction in respect of the suit schedule properties. The plaintiff had contended that the suit properties were originally belonged to one Muthusamy Gounder, from whom the plaintiff had purchased the same under a registered sale deed dated 03.02.1984. Ever since the purchase, the plaintiff is in possession and has also got the Revenue records mutated in his name. The total extent of the suit properties is 5.09



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acres, which consists of a tiled house, thatched shed, two irrigation Wells and 40 coconut trees. The property would fetch about Rs.60,00,000/- as per the guide line value. The Electricity service connection stands in the name of the plaintiff and he has been paying the consumption charges to the Electricity Board.

3. On 15.01.1999, the suit properties were leased out to one Muthusamy and he was a cultivating tenant of the property. After his death, his legal representatives were carrying on the agricultural operations. In addition to the agricultural activities, the plaintiff was also running a Rig service. The first defendant was a money lender. The plaintiff had borrowed loans from the first defendant, who is the close relative of the plaintiff. During March, 1999, the plaintiff had approached the defendants for a loan of Rs.1,50,000/-, for which the defendants insisted upon the execution of an agreement of sale and a Power of Attorney. As the plaintiff was in need of funds urgently, he had agreed to sign whatever papers that were shown to



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him. These documents have not been executed voluntarily but was only executed on compulsion. The defendants were acting against the interest of the plaintiff and were attempting to usurp the properties, therefore a legal notice was issued. The defendants started threatening the lessee Muthusamy Gounder to vacate the suit properties, as if they have purchased the same from the plaintiff. This constrained him to file a suit in O.S.No.243 of 1999 on the file of District Munsif Court, Paramathy and he had obtained temporary injunction in I.A.No.744 of 1999 on 28.10.1999. Thereafter, the Mediation attempts has also failed. Therefore, the plaintiff has come forward with the present suit.

4. The written statement was filed refuting the various allegation made in the plaint. It was the case of the defendants that the suit properties originally belonged to the father-in-law of the plaintiff by name Muthusamy Gounder, who is the plaintiff in O.S.No.243 of 1999. The above Muthusamy Gounder became highly indebted. He sold the suit property on 03.02.1984 in



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favour of the plaintiff and put him in possession of the same. The plaintiff is running a Rig service and also shifted his family to Tiruchengode Town. The defendants offered to purchase the property to which the plaintiff had evinced interest pursuant to which the registered agreement was executed, thereafter the sale deed dated 15.10.1999 was executed by the petitioner's power of agent in favour of the defendants. O.S.No.243 of 1999 filed on the basis of a manipulated lease agreement, has also been dismissed. Therefore, the defendants sought for the dismissal of the present suit.

5. The defendants 3 and 4 has also filed written statement refuting the claim of the petitioner. After the recording of evidence was over and the matter was posted for arguments, the plaintiff has come forward with three applications to recall the plaintiff as P.W.1, to re-open the plaintiff's side evidence and to mark documents to prove his possession. The list of documents shown in the application describes 18 documents.



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6. The defendants had filed a counter affidavit contending that the documents which are sought to be filed are all in the custody of the plaintiff and no explanation has been given as to why those documents had not been produced earlier during his cross examination. On 08.04.2021, petitioner/P.W.1 had admitted that the documents were very much available in his custody. However, in his cross examination he admitted that those documents could not be produced at the time of P.W.1's examination and he has also admitted that in the plaint as well as in the chief examination, he has not mentioned that he is in occupation of the house in the suit property. Those documents appeared to be manipulated after filing of the suit.

7. The contents of the affidavit appeared to be the same in respect of all the Interlocutory Applications and in the counter the defendants had raised same objections. The learned District Munsif, Paramathy after hearing the parties, proceeded to dismiss the said applications. Challenging the said orders, the above revision petitions have been filed.



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8. Heard the learned counsel for the petitioner.

9. A mere perusal of the documents, which have been listed in the application for re-opening the plaintiff's side evidence shows that all those 18 documents have been in the possession of the plaintiff right from the date of the plaint. No satisfactory explanation has been given for seeking to mark those documents at this belated stage that too when the matter was posted for arguments. The petitioner had earlier filed an application in I.A.No.2 of 2021 to reopen the petitioner's side evidence and to recall P.W.1 to cross examine him regarding the proceedings in O.S.No.45 of 2001. The said application was dismissed. Therefore, once again the petitioner has come forward to file an application in the suit for the very same relief. The learned Single Judge has observed that no satisfactory and sufficient reasons have been given and the documents produced are the documents which are used everyday and it is not the case of the plaintiff that those documents were not available and he



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has come into possession of the same now. In these circumstances, there is no infirmity in the order passed by the trial Court.

In the result, these Civil Revision Petitions stand dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.02.2022

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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To

The District Munsif,
Paramathy.

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