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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

C.R.P.NO.473 OF 2022

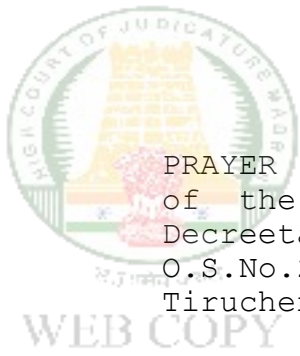
N.Krishnamoorthi,

...Petitioner

Versus

- 1.State rep. by
The District Collector
Office of Collectorate,
Namakkal.
- 2.The District Revenue Officer,
Office of Collectorate,
Namakkal.
- 3.The Revenue Divisional Officer,
R.D.O.Office,
Vellore Road,
Tiruchengode Town and Taluk,
Namakkal District.
- 4.The Tahsildar,
Office of Tahsildar
Vellore Road,
Tiruchengode Town and Taluk,
Namakkal District.
- 5.The Commissioner
Tiruchengode Municipality,
Vellore Road,
Tiruchengode Town and Taluk
Namakkal District.
- S.Rajamani (died)
- 6.Indirani
- 7.Gnapreetha
- 8.Kiruthika,
- 9.Sangeetha,
- 10.Muthuraja,

...Respondents



PRAYER : The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decreeal order dated 01-12-2021 made in I.A.No.04 of 2021 in O.S.No.211 of 2012 on the file of the Principal District Munsif, Tiruchengode.

For Petitioner : R.Marudhachalamurthy
For R1 to R5 : Mr.P.Harish
Government Advocate (CS)

O R D E R

The suit for declaration of title was laid in the year 2012 in O.S.No.211 of 2012 on the file of the Principal District Munsif, Tiruchengode. The plaintiff / revision petitioner has taken out an application in I.A.No.04 of 2021 for directing the 4th defendant/4th respondent (Tahsildar), Tiruchengode, to produce certain documents. The core contention of the plaintiff in the suit is that despite cautioning the revenue authorities of his existing title, they had mutated the revenue records to include the name of the 6th defendant namely S.Rajamani.

2. While so, the plaintiff/revision petitioner has filed I.A.4 of 2021 when he is in the witness box to establish his case for production of certain documents by the 4th defendant/4th respondent herein. Vide impugned Order dated 01.12.2021, the learned Principal District Munsif, Tiruchengode has dismissed it, which is now under challenge in this petition.

3. The learned counsel for the revision petitioner placed emphasis much on the fact that when once objection is raised by the plaintiff to the mutation of the revenue records, it is imperative that the Tahsildar or such of the revenue authority who is responsible for the same must adhere to the Tamil Nadu Patta Passbook Act, 1983 and ought to have held an enquiry, and that in the instant case this was not done. Hence, to prove the same, the plaintiff has come forward with I.A.No.4 of 2021 for the production of some documents by the 4th defendant. As indicated earlier this was dismissed.

4. This court considered the submissions of the learned counsel for the petitioner in the context of the pleadings in the case. In a suit for declaration of title, initial burden is on the plaintiff and it is immutable. The plaintiff is only required to prove his title to the property, and is not required to adduce negative evidence to prove that the defendant does not have any right over the property. After all, the revenue authorities, and such of the private defendants namely defendants 6 to 10, who are alleged to be the beneficiaries of



certain alleged act of the revenue authority are also before the Court. Now it would be their burden to establish that they defendants/ respondents 6 to 10 to prove their source of title.

5. If at all these defendants establish their source of title, then it is the obligation of the court in its adjudicatory process to evaluate the relative merit of the evidence so made available while deciding the case. To expatiate it, if on a consideration of the rival evidentiary material made available before the trial court, it finds that the evidence produced by the plaintiff preponderates the probability of his case, then the suit must to be decreed. If on the contrary, the Court comes to the conclusion that the defendants have a better title than the plaintiff, then the suit should necessarily be dismissed. Now in the context of the present case, during final adjudication, the trial Court only needs to remember two aspects:

- First, the entries in the revenue records including patta or adangal etc. are not the documents of title. But, they only support the title.
- Secondly, the burden is on the revenue authorities to justify their decision to mutate the patta and that they indeed had acted in accordance with the provisions of the Tamil Nadu Patta Pass Book Act, and if they fail to withhold any evidence that may be necessary to establish the justification, correctness and legality of their action, necessarily, the Court can draw adverse inference.

It will be useful for the trial Court to refer to the judgement of this Court in the case of G.Ramanujam v. State of Tamil Nadu and others reported in 2021 (1) MLJ 648.

6. Now, the plaintiff by filing an application seeking a direction to the 4th defendant to produce some documents is only attempting to take upon himself the burden to prove something which in law is on the 4th defendant. Since, it is possible for the plaintiff to work out his strategy even within the framework of the principles of evidence law, this Court does not consider that there is any need to decide the issue on merits of the reasoning of the impugned Order.

7. Hence, the Civil Revision Petition is disposed of, and the trial Court is required to adjudicate the matter as outlined above. Consequently, connected miscellaneous petition is closed. No cost.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

dk/msv



To

The Principal District Munsif,
Tiruchengode.

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The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.Marudachalamurthy, Advocate Sr.No.13635

+1cc to the Government Pleader Sr.No.13920

CRP.No.473 of 2022

MG (CO)
RVM(03/03/2022)