



CRP.No.3859 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3859 of 2016
and CMP.No.19648 of 2016

1.M.Showkath Ali
2.B.Mahaveer Jain

... Petitioners

Vs.

1.Kuppusamy
2.The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore,
Big Bazaar Street, Coimbatore 641 001

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 11.11.2016 made in IA.No.509 of 2016 in OS.No.463 of 2003 on the file of the I Additional Sub Court at Coimbatore.

For Petitioners : Mr.M.Sriram

For Respondents

For R1 : No appearance

For R2 : Mr.K.Magesh



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ORDER

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This civil revision petition has been filed to set aside the order dated 11.11.2016 made in IA.No.509 of 2016 in OS.No.463 of 2003 on the file of the I Additional Sub Court at Coimbatore, thereby dismissed the petition filed to summon the petition mentioned officials to produce the documents by the second respondent herein.

2. Heard, the learned counsel for the petitioners and the learned counsel for the second respondent.

3. The petitioners filed suit for declaration declaring that the first petitioner is the registered mortgagee under the usufructory mortgage deed dated 14.10.1996 under the first defendant who is the owner of the 'A' schedule property. Further declaration that the second petitioner is the lessee under the lease deed dated 23.12.1996 and other prayers. Whereas the case of the second defendant is that the property owned by the Coimbatore City Municipal Corporation and the suit itself is a fictitious one. The petitioners created so many documents as if executed by the first respondent herein. The first respondent itself is a fictitious person and no such person is available. The



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second respondent issued notice under Sections 258 and 451 of Coimbatore

City Municipal Corporation Act in respect of the suit property. That was under

challenge before this Court in a writ petition. However, this Court directed the

second respondent to conduct enquiry. During the enquiry, the petitioners

produced so many documents and the enquiry resulted against the petitioners

herein. The said order was also challenged before this Court and

simultaneously the petitioners also initiated the present suit. The suit was filed

in the year 2003. This Court allowed the writ petition setting aside the

impugned order passed by the second respondent and without prejudice to the

right of the second respondent, ordered to take appropriate action under

Sections 258 and 451(4) of the Coimbatore City Municipal Corporation Act

subject to the result of the suit in OS.No.463 of 2003. While pending the suit,

in the year 2016, the petitioners came forward with the present application to

summon those documents which were filed at the time of enquiry. In the

enquiry, documents which were filed by the petitioners were concluded as

fictitious one and the petitioners failed to prove those documents. Therefore,

the court below rightly dismissed the petition on the ground that the said

application was filed only to drag the suit.



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4. In view of the above, this Court finds no infirmity or illegality in the order passed by the court below. Accordingly, this civil revision petition is dismissed. However, the petitioners are at liberty to mark the documents which are annexed with the plaint. The trial court i.e. I Additional Sub Court at Coimbatore is directed to dispose of the suit in OS.No.463 of 2003 within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

19.12.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The I Additional Sub Court at Coimbatore.
- 2.The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore,
Big Bazaar Street, Coimbatore 641 001

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