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C.R.P. (PD) No.1635 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2022

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

C.R.P.(PD).No.1635 of 2021

and

C.M.P.No.12723 of 2021

- 1.Palaniammal
- 2.Arumugam
- 3.Ponnayal

...Petitioners

Versus

- 1.Muthusamy
- 2.The District Collector of Namakkal
Office of Collectorate,
Nallipalayam Post,
Namakkal Taluk, Namakkal District.
- 3.The Revenue Divisional Officer,
Katcheri Street,
Tiruchengode Town and Taluk, Namakkal District.
- 4.The Tahsildar,
Tiruchengode,
Katcheri Street,
Tiruchengode Town and Taluk, Namakkal District.
- 5.Deputy Thasildar,
Trichengode,
Katcheri Street,
Tiruchengode Town and Taluk,
Namakkal District.

...Respondents



PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 27.04.2021 made in I.A.No.02 of 2019 in O.S.No.43 of 2015 on the file of the Principal District Munsif, Tiruchengode.

For Petitioners : Mr. R. Marudhachalamurthy
For R2 to R5 : Mr. E. Vijay Anand
(Additional Government Pleader)

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 27.04.2021 made in I.A.No.02 of 2019 in O.S.No.43 of 2015 on the file of the Principal District Munsif, Tiruchengode.

2.Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for R2 to R5.

3.The petitioners are the plaintiffs in the suit. The petitioners herein filed the suit in O.S.No.43 of 2015 against one Muthusamy seeking permanent injunction restraining him, his men, servants or agents interfering with the plaintiff's peaceful possession and enjoyment of the properties.



4. On notice, written statement was filed by the defendant claiming title over the suit properties and also claimed that patta for the suit properties stands in his name. However, as prior to that patta stood in the name of the 1st plaintiff's husband, the plaintiffs requested the defendant to serve the copies of the patta transfer order but the same was not conceded by the defendant. Hence the plaintiffs applied for copy of the patta transfer order before revenue authorities under Right to Information Act. Since the copy of the order was not provided to the plaintiffs, they have filed a writ before this Court. As per the order of this Court, the Commissioner directed the authorities to serve the plaintiffs the entire records and copy of the patta transfer order and also ordered to pass necessary orders after hearing both the parties. In spite of plaintiffs' repeated requests, the Revenue Officials - The Tahsildar and Deputy Tahsildar, Tiruchengode have not passed any order. In the said circumstances, the plaintiffs were made to file a petition to amend the plaint with a prayer for declaring that the patta transfer order in the name of the defendant is null and void and consequently prayed for issuing a decree for mandatory injunction directing the revenue authorities at Tiruchengode to remove the name of the defendant in the patta transfer order and restore the same in the name of the plaintiff in Patta No.306. For this purpose, the plaintiff filed two applications in I.A.No.1 of 2019 seeking for amendment of the plaint and I.A.No.2 of 2019



to implead the revenue officials for proper adjudication in the suit. The Trial Court dismissed the Application in I.A. No.2 of 2019 alone without considering the application in I.A. No.1 of 2019. Hence, this Civil Revision Petition has been filed against the order dated 27.04.2021 made in I.A. No.2 of 2019 in O.S. No.43 of 2015 on the file of the Principal District Munsif, Tiruchengode.

5.The learned counsel for the petitioners would submit that the trial Court without passing order in the two applications simultaneously, considered I.A.No.2 of 2019 alone and dismissed the I.A.No.2 of 2019 in which the plaintiffs have sought for impleading Collector, Revenue officials, Tahsildar and Deputy Tahsildar by holding that there is no cause of action against the revenue authorities. The suit was filed by the plaintiffs only for permanent injunction against the defendant alleging that he attempted to trespass into the suit property on 09.02.2015 and 12.02.2015.

6.It has been further submitted that the trial Court ought to have considered both interlocutory applications simultaneously and ought to have passed a meaningful orders in both the applications, but erroneously decided in I.A.No.2 of 2019 alone which was filed for impleading of necessary and proper



parties and dismissed it on the ground that there is no cause of action as against the proposed parties. It is also submitted that the I.A.No.1 of 2019 in which the plaintiffs sought for amendment of pleading in the plaint was kept pending without passing any order.

7.The learned Additional Government Pleader objected the submissions of the plaintiffs/petitioners herein and further he submitted that the Trial Court dismissed the I.A. No.2 of 2019 in O.S. No.43 of 2015 after perusing the entire records and considering the submissions of the learned counsel appearing for both sides. Hence, the petition is liable to be dismissed.

8. It is seen from the submissions of the learned counsel for the petitioner that as two applications in I.A. No.1 of 2019 and I.A. No.2 of 2019 are interconnected, two applications are simultaneously to be considered and disposed of jointly by the Trial Court.

9. On a perusal of the records, it is seen that there are two applications have been filed jointly in I.A. No.1 of 2019 for amendment of the plaint and I.A. No.2 of 2019 for impleading the Government authorities in O.S. No.43 of 2015 before the Trial Court. However, the Court below has



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S.KANNAMMAL, J.,

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taken the application in I.A.No.2 of 2019 alone which has been filed for impleading the Government authorities in the suit leaving I.A. No.1 of 2019 which has been filed to amend the plaint.

9.Considering the facts and circumstances of the case, this Court is inclined to remit the case before the Trial Court to consider both the I.A. Nos.1 & 2 of 2012 simultaneously. Hence, the Trial Court is directed to consider both I.A.Nos. 1 & 2 of 2012 simultaneously and pass appropriate orders on merits.

9. In the result, this Civil Revision Petition is disposed of.

06.07.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order

To:

The Principal District Munsif,
Tiruchengode.

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