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C.R.P (MD) No.255 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

C.R.P (MD) No.255 of 2018

and

CMP (MD) No.1119 of 2018

Chinnasamy ... Petitioner
Vs

Backiyalakshmi ... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.10.2017 made in I.A.No.614 of 2017 in O.S.No.122 of 2015 on the file of the District Munsif cum Chief Judicial Magistrate, Peraiyur.

For Petitioner : Mr.K.Arunraj

For Respondent : Mr.S.Karthich Subramaniam

ORDER

As against the order of the District Munsif cum Judicial Magistrate, Peraiyur dated 23.10.2017 made in I.A.No.614 of 2017 in O.S.No.122 of 2015.



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2.The defendant in the above suit has filed this civil revision petition. The first respondent/plaintiff has filed the above suit for bare injunction as against the defendant. The plaintiff has marked certain house tax receipts, as if there is a building in the suit schedule property. According to the learned Counsel for the petitioner, the receipts would disclose that it is only a bathroom and toilet and the receipts are created one with the help of the panchayat secretary and by examining the Bill Collector, the genuineness of the receipts can be ascertained. Therefore, the petitioner has filed an interlocutory application in I.A.No.614 of 2017 to examine the Bill Collector of Nallamaram Village Panchayat. However the trial Court dismissed the application that there is no need to examine the Bill Collector, which is challenged before this Court in this civil revision petition.

3.According to the learned Counsel for the respondent the property in dispute is a house property, but it has been wrongly assessed that it is a bathroom and toilet by the panchayat secretary and therefore, there is no need to examine him and the trial Court has rightly dismissed the



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application filed by the petitioner.

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4.Heard the learned Counsel on either side and perused the materials placed on record.

5.The above suit is filed for a bare injunction by the respondent/plaintiff and she also claimed possession of the property by marking document Ex.A.3, which is a house tax receipt issued by the Panchayat Secretary of Nallamaram Panchayat. The receipt has been issued for a bathroom and toilet. The respondent claims that it is a house property, however, it has been wrongly assessed by the bill collector as bathroom and toilet.

6.According to the learned Counsel for the petitioner it is not the property of the respondent/plaintiff and it is a public toilet, which is allotted for public use and by examining the Bill Collector, the petitioner/defendant can demolish the case of the plaintiff and prove that it is a forged document. This Court is satisfied with the ground raised by the petitioner and therefore, this petition is allowed. The matter is remanded back to the trial Court for

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fresh consideration. No costs. Consequently connected
miscellaneous petition stands closed.

02.08.2022

dsk

To

The District Munsif

cum Chief Judicial Magistrate,
Peraliyur.



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B.PUGALENDHI, J.

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