



CRP(PD)(MD)No.1726 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1726 of 2022

and

CMP(MD)No.7569 of 2022

1. S.Muthaiah Aasari
2. S.Kandha Samy Aasari
3. P.Mahalingam

... Petitioners

versus

1. P.Subramaniyan
(Present Akthar of Pattavarayan
Temple in Keela Veeranam)

2. M.Palanisamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.11.2021 passed in I.A.No.2 of 2021 in O.S.No.382 of 2016 on the file of the Principal District Munsif Court, Tenkasi.

For Petitioners : Mr.D.Nallathambi



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ORDER

This Civil Revision Petition is filed against the order dated 23.11.2021 passed in I.A.No.2 of 2021 in O.S.No.382 of 2016 on the file of the Principal District Munsif Court, Tenkasi.

2. The petitioners are defendants 1, 2 and 4 in the suit in O.S.No. 382 of 2016 pending on the file of the Principal District Munsif Court, Tenkasi. They filed an interlocutory application in I.A.No.2 of 2021 in O.S.No.382 of 2016 to receive a xerox copy of Yadast as a secondary evidence that the document is very much available with the first respondent/plaintiff. The trial Court, by order dated 23.11.2021, dismissed the said application holding that there is no pleadings to that effect in the written statement filed by the petitioners in the year 2017 and there is no such plea taken during the cross examination of P.W.1 and the plaintiff has also denied the availability of the said document. Aggrieved over the same, the present Civil Revision Petition is filed.



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3. The learned counsel appearing for the petitioners submits that yadast is an important document, through which, the petitioners can establish their case before the trial Court and it is very much available with the first respondent/plaintiff, however, it was omitted to be referred in the written statement. On this negligence, the petitioners' chance of producing the said document cannot be curtailed.

4. This Court considered the submission made by the learned counsel for the petitioners and perused the materials available on record.

5. The suit was filed in the year 2016 and the petitioners/defendants 1, 2 and 4 have also filed their written statement in the year 2017 and thereafter, trial also commenced in the year 2018 and when the suit was in the stage of defendants side evidence, at that time, the petitioners have filed the above interlocutory application to



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receive a xerox copy of Yadast as secondary evidence that the original is available with the first respondent/plaintiff. But, the petitioners have not taken this plea in the written statement, which was filed by them in the year 2017 and also failed to raise any such issue with the first respondent/plaintiff, while he was cross examined by the defendants in the year 2018. Therefore, this Court is not inclined to interfere with the findings of the trial Court.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.12.2022

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Index : Yes / No.

Internet : Yes / No.

To

1. The Principal District Munsif Court,
Tenkasi.

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B.PUGALENDHI, J.

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