



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P.(MD) Nos.796 and 797 of 2018

and

C.M.P(MD) No.3511 of 2018

M.Perumal

... Petitioner/Petitioner/
Plaintiff
(in both petitions)

-vs-

Lingam Ammal

... Respondent/Respondent/
Defendant
(in both petitions)

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.02.2018 passed in I.A.Nos.1119 and 1120 of 2017 in O.S.No.19 of 2012 on the file of the learned Sub Court, Valliyoor by allowing this civil revision petition with cost.

For Petitioner : Mr.D.Nallathambi

For Respondent : Mr.H.Arumugam

ORDER

These civil revision petitions have been filed against the orders passed by the learned Subordinate Judge, Valliyoor, in I.A.Nos.1119 and 1120 of 2017 in O.S.No.19 of 2012. The said Interlocutory applications were filed by the revision petitioner to recall and re-open the evidence of DW1.

2.According to the revision petitioner, the reason for recalling the evidence was that the defendant's son, namely, Mr.Kumar has filed a suit in O.S.No.12 of 2011 against one Dhavithu, wherein he has stated that the western portion of the property belongs to the plaintiff/petitioner. However, this aspect was left out at the time of examination of DW1. Therefore, he has filed the above applications to recall and reopen the evident of DW1 to strengthen his case. Without assigning any proper reasons, the Court below dismissed the said applications. Hence, he prayed for setting aside the order passed by the Court below.



3.On the other hand, the learned counsel for the respondent/defendant would submit that the revision petitioner herein has raised this issue at the time of examination of DW1 and he has specifically put the question with regard to the subject property in O.S.No.12 of 2011 and also he has asked the question as to whether the western portion of the property belongs to the plaintiff or not. Therefore, he raised all relevant questions at the time of examination of DW1 and there is no need for further examination. Only for the purpose of gaining the time, this application has been filed. Further, the suit is at the stage of argument. Hence, he prayed for dismissal of these revision petitions.

4.I have given a due consideration to the submissions made by the learned counsel for the petitioner as well as the respondent.

5.Upon hearing of both the counsel and perusing the records, it is clear that the suit was filed for declaration. When the petitioner /plaintiff has filed the suit for declaration, it is for the petitioner to produce the title deed and establish his title. Now, in order to strengthen his case, he wants to re-examine DW1 on the aspect that the western portion of the property belongs to the petitioner/plaintiff.

6.This Court is of the considered view that by virtue of a mere statement in the settlement deed that the western portion of the property belongs to the petitioner, the Court cannot come to the conclusion that the suit property belongs to the plaintiff. It is for the plaintiff to establish his title through various documents and based on those documents only, the Court can arrive at a conclusion. Therefore, mere averments in the plaint in O.S.No.12 of 2011 filed by the son of the respondent will no way be useful. Apart from that, all these aspects, the petitioner has asked the relevant question to the defendant at the time of examination and there is no need for further examination of DW1 regarding the suit in O.S.No.12 of 2011. Hence, I do not find any force in the submissions made by the learned counsel for the petitioner and the civil revision petitions are liable to be dismissed.

7.With the above observations, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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To

The Subordinate Judge,
Valliyoor.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-12807[F]
dated 17/03/2022)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-12924[F] dated 18/03/2022)

C.R.P. (MD) Nos.796 and 797 of 2018

and

C.M.P(MD) No.3511 of 2018

Dated: 16.03.2022

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