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C.R.P.(PD)No.21



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(PD)No.214 of 2019
and C.M.P.No.1684 of 2019**

C.Shanmugasundaram

.. Petitioner

Vs.

1.The District Collector
Coimbatore.

2.The Special Tahsildhar
Adi Dravidar and Tribal Welfare
Coimbatore.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 07.12.2018 in I.A.No.1032 of 2018 in O.S.No.1579 of 2014 on the file of the II Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.MA.P.Thangavel

For Respondents : Mr.B.Tamilnidhi
Additional Govt. Pleader (CS)



ORDER

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Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents. I have carefully gone through the records.

2. The revision arises against an order passed in I.A.No.1032 of 2018 in O.S.No.1579 of 2014 on the file of the II Additional District Munsif Court, Coimbatore.

3. The civil revision petitioner is the plaintiff and the respondents are the defendants. I.A.No.1032 of 2018 was an application filed by the respondents/defendants. Though the application states it is for condonation of delay for production of documents, Order XIII Rule 1 and 2 of the Code of Civil Procedure has been substantially amended by way of the Code of Civil Procedure Amendment Act, 2002. Therefore, in effect, the application is under Order VIII Rule 1(a)(iii) of the Code of Civil Procedure.

4. The learned trial Judge after receipt of counter from the respondents, has allowed the application. The documents are photostat copies, which have been attested by the competent authority. Whether the documents are admissible in evidence, as they are secondary evidence or whether the documents are necessary for the purpose of the suit, have to be decided at the time of trial.



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of 2018.

5. The learned Judge has also stated that it is open to the plaintiff/petitioner to verify the originals along with the copies that have been filed along with I.A.No.1032 of 2018.

6. Mr.MA.P.Thangavel, learned counsel for the petitioner would state that the order falls out of two judgments of this Court in *N.P.Lakshmanan and another vs. R.Ranganathan* (2018) 3 MLJ 26 and *Murugan vs. Ayyanar Manupatra/TN/0331/2018*.

7. A perusal of the first judgment shows that there was absolutely no pleading for the documents and they were all after suit documents. In so far as the second judgment is concerned, the very same learned Judge had held that crucial admissions have been made by D.W.1, if the documents were to be received, the defendants might withdraw the same. She held it will cause serious prejudice to the case of the plaintiff.

8. In the present case, it cannot be stated that there is no pleading, because in the written statement in paragraph 4, a specific stand has been taken by the defendants that it verified the village and taluk records and came to the conclusion that the plaintiff has no right over the suit schedule mentioned properties. Whether the plaintiff has a right or not, is a matter, which has to be gone into at the time of trial.

However, there is a pleading to the effect that the plaintiff is not the true owner and



the defendants are attempting to place revenue as well as taluk records in the suit in order to substantiate the case.

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9. As pointed out by this Court in *N.P.Lakshmanan and another vs. R.Ranganathan* (2018) 3 MLJ 26 and *Murugan vs. Ayyanar Manupatra/TN/0331/2018*, this is a case of exercise of discretion and the discretion has been properly exercised. Sitting under Article 227 of the Constitution of India, unless and until the discretion is arbitrary or absolutely illegal, I cannot interfere with the same. I do not find any illegality in the order passed by the learned II Additional District Munsif, Coimbatore, dated 07.12.2018 and the same is confirmed.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

The II Additional District Munsif, Coimbatore.



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V.LAKSHMINARAYANAN,J.

Kj

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