



C.R.P.No.1721 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**C.R.P.No.1721 of 2023
and
C.M.P.No.11199 of 2023**

Periyasamy

... Petitioner

-vs-

Sarprasatham

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 15.02.2023 made in I.A.No.3 of 2023 in O.S.No.501 of 2013 on the file of the District Munsif Court, Perambalur.

For Petitioner : Mr.T.Seenivasan

For Respondent : Mr.S.Thirumavalan

O R D E R

This Civil Revision Petition has been filed against the fair and decretal order dated 15.02.2023 made in I.A.No.3 of 2023 in O.S.No.501 of 2013 on the file of the District Munsif Court, Perambalur.



C.R.P.No.1721 of 2023

2. Heard the learned counsel for the petitioner and perused the records.

3. On a perusal of the records, it is seen that the petitioner/plaintiff has filed a suit in O.S.No. 501 of 2013 before the District Munsif Court, Perambalur, for declaration and consequential injunction. The defendant has contested the suit by filing written statement denying all the averments made in the plaint. During the pendency of the suit proceedings, the petitioner/plaintiff has filed I.A.No.3 of 2023 seeking to reopen the plaintiff's side evidence. After perusing the records the Court below dismissed the application by order dated 15.02.2023. Aggrieved by the said order, the petitioner has come forward with the present Civil Revision Petition.

4. On a further perusal of the records, it reveals that the land comprised in Old Survey No.549/1 measuring to an extent 3.48 cents situated at Palayam Village, Perambalur Taluk and District was owned and possessed by the mother of the respondent, namely, Rathinamary, who



C.R.P.No.1721 of 2023

settled the same in favour of the respondent and his brother Susairaj by way of Settlement Deed, dated 12.08.1986. The respondent and his brother bifurcated the partitioned their estates among themselves and the aforesaid suit property was allotted to the respondent. Further, the respondent sold the suit property to the petitioner for a valuable sale consideration by way of Sale Deed, dated 21.12.2005 and thereafter, the petitioner is in absolute possession and enjoyment of the suit property without any inference. Further, the Revenue Authorities recognized his possession and enjoyment of the suit property, who issued patta and also mutated Revenue Records in his name. On 28.11.2013, the respondent tried to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Hence the suit.

5. It is also seen that the issues have been framed by the Court below and the trial has also commenced. On the side of the plaintiff, four witnesses have been examined so far. In order to prove the plaintiff's case, he sought some adjournment to examine the Village Administrative Officer, Palayam, Kurumbalur Majira. Thereafter, the suit was posted for further



C.R.P.No.1721 of 2023

hearing on 06.02.2023. Finally, the Court below closed the plaintiff's side evidence and the matter was adjourned to 09.02.2023 for defendant's side evidence. At this juncture, the petitioner/plaintiff has filed the application for reopening the plaintiff's side evidence and to prove his case but the Court below has erroneously dismissed the aforesaid application by order dated 15.02.2023. Hence, this Court is inclined to grant one more opportunity to the petitioner/plaintiff to prove his case before the Court below.

6. Taking into the above facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and the suit is of the year 2013, this Court is inclined to set aside the findings of the Court below. Further, the order dated 15.02.2023 passed in I.A.No.3 of 2023 in O.S.No.501 of 2013 pending on the file of the District Munsif Court, Perambalur, is set aside. The Court below is directed to permit the petitioner to re-open the witnesses only one day and on the same day, issue summons to the Village Administrative Officer either Chief Examination or Cross-Examination has to be completed on the next day and further



C.R.P.No.1721 of 2023

witnesses to be examined if any. After completing the examination of witnesses and the matter has to be proceeded further in accordance with law. Furthermore, the Court below is directed to dispose of the suit in O.S.No. 501 of 2013 pending on the file of the District Munsif Court, Perambalur, without any unnecessary delay on or before 31.01.2024. Both parties are directed to co-operate for trial and dispose of the suit.

7. With the above directions, this Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

28.07.2023

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
kv

To

The District Munsif Court, Perambalur.



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C.R.P.No.1721 of 2023

V.BHAVANI SUBBAROYAN,J.

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C.R.P.No.1721 of 2023

28.07.2023