



CRP No.1610 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.11.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.1610 of 2023

and

CMP.No.10491 of 2023

P.Ponraj

... Petitioner

Versus

S.Manimaran

... Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order passed in I.A.No.6 of 2023 in O.S.No.106 of 2013, dated 08.03.2023, on the file of the District Munsiff Court, Ambattur.

For Petitioner : Mr. S.N.Ravikumar

For Respondent : Mr. V.Manisekaran

ORDER

The petitioner has filed this petition to set aside the order passed in I.A.No.6 of 2023 in O.S.No.106 of 2013, dated 08.03.2023, on the file of the District Munsiff Court, Ambattur.

2. Heard Mr. S.N.Ravikumar, learned counsel for the petitioner and Mr. V.Manisekaran, learned counsel appearing for the respondent and perused the materials available on record.

3. Before the trial Court the petitioner has filed an I.A.No.6 of 2023 in



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O.S.No.106 of 2013 under Order XVI Rules 6 & 7 of CPC to send the witness summons to the Taluk Thasildar, Ambattur to produce the relevant records of Chitta and Adangal and as well as the patta register pertaining to the suit property bearing S.No.16/1 Ayapakkam village, if anything issued by the Taluk Thasildar as exhibited before the Court in Ex.A2 to Ex.A4 and also to give evidence about the Ex.A2 to A4.

4. On considering both side submissions, the learned trial Judge dismissed the interlocutory application, holding that under Section 79 read with Section 76 of the Indian Evidence Act, Ex.A3 and Ex.A4 being due certified copies are presumed to be original. There is no material on record to question the genuineness of Ex.A3 and Ex.A4. When there is no prima facie case regarding any ambiguity in the nature of Ex.A3 and A4, the examination of the Thasildhar will be without any purpose. Further Ex.A2 is a Sale Deed dated 25.06.1991 in favour of the plaintiff's vendor and hence, there is no purpose for the Thasildhar to have knowledge and depose about the said Exs.A2 to A4 and observed that there is no necessity to issue summons as prayed for, against which the revision petitioner has preferred this Civil Revision Petition.

5. The learned counsel for the petitioner submitted the documents filed



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before the trial Court by the plaintiff marked as Ex.A1 is the settlement deed and A2 is the Patta, Exs.A3 & A4 are Chitta and Adankal, whereas in the impugned order, the lower Court specified Ex.A2 as Sale deed dated 25.06.1991 and the plaintiff's mother executed the settlement deed and Ex.A1 is no way connected and relevant to decide the Order XVI Rules 6&7 of CPC. But unfortunately the trial Court held Taluk Tashildar cannot have any personal Knowledge about Ex.A2. He further submitted that the trial Court erroneously held that the case is at the stage of arguments actually and the case is posted for further evidence of the defendant side if any. He further submitted that Ex.A2 to A4 are not bogus documents and certainly they cannot be issued by the Revenue Authority and in such circumstances, either the plaintiff or at his request and on filing application, the question of genuineness and validity of the documents may be gone into, which curtailed at the instance of passing impugned order of dismissal in I.A.No.6 of 2023 dated 08.03.2023.

6. The learned counsel for the respondent submitted that the Thasildhar, Ambattur is not a party to the suit proceedings. The suit is of the year 2013 and the plaintiff was examined on 22.11.2018 and Ex.A1 to Ex.A4 were marked. For cross examination of P.W.1, the suit was listed. On



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16.12.2020 the defendant evidence was closed and the suit was posted for arguments on 08.01.2021. Thereafter, the petition to recall and reopen was filed on 07.07.2021 in I.A.No.2 & 3 of 2021 and the same were dismissed, and it was only to drag on the proceedings, the defendant has filed the present application. Thereafter, the petitioner has filed I.A.No.6 of 2023 to issue summons to the Taluk Thasildar, Ambattor to produce the relevant records, and the same also dismissed by the learned trial Judge on 08.03.2023. To drag on the proceedings, the petitioner has filed this revision petition. The learned trial Judge rightly concluded and dismissed I.A.No.6 of 2023, which needs no interference by this Court. Hence, he prays to dismiss this Civil Revision petition.

7. On a perusal of the records, it reveals that, the copies of the settlement deed, Chitta and Patta are annexed in the typed set of papers, which shows that there are two different villages mentioned in the Revenue Records and in respect of the extent also in clarification, and so all those facts can be explained before the Court by examining the Revenue Officials and as such it is permissible, without which, the Court cannot presume the genuineness of the documents. However, on seeing the impugned order passed by the learned trial Judge in Para No.11, the learned trial Judge held



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that by relying on the certified copy of Ex.A3 and A4, it can be presumed as original, and such observation is unwarranted.

8. Further, there is no contradiction with regard to the extent and issuance of the Patta. Therefore, this Court is inclined to set aside the findings rendered by the learned trial Judge in I.A.No.6 of 2023, in O.S.No.106 of 2013. If opportunity is not given to the parties, they will be put to much hardship.

9. Accordingly the impugned order is set aside, this Civil Revision petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

17.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No

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To

1. The District Munsiff, Ambattur.
- 2.The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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