



C.R.P.Nos.2080 to 2082 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.2080 to 2082 of 2020 &
C.M.P. No.13146 of 2020 in
C.R.P.No.2080 of 2020

1. K.Nadarajan
2. N.Nakkilivalava
3. G.Malarkodi

... Petitioners in all the petitions

Vs.

1. T.R.Somasundaram (died)
2. K.Subramani
3. Poongavanam
4. S.Jayalakshmi
5. S.Shankar
6. Jothi
7. Shanmugam
8. Chandru
9. Sucila

[R5 to R9 brought on record as Lrs of the deceased R-1. Viz., T.R.Somasundaram, vide court order dated 30.08.2022 made in C.M.P.No.1360 of 2022 in CRP No.2080 of 2020 by SSKJ]

... Respondents in all the petitions

Civil Revision Petitions are filed under Article 227 of Constitution of India to set aside the common fair and decreetal order dated 20.03.2020



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passed in I.A.Nos.05, 06 and 07 of 2020 in O.S.No.139 of 2008 on the file of the learned Principal District Munsif, Tiruvallur respectively.

For Petitioners : Mr.S.Veeraraghavan

For Respondents : Mr.M.S.Subramanian
for R5 to R9

COMMON ORDER

Since the issues involved in these Revision Petitions are interlinked, they are taken up together and a common order is being passed.

2. The present Civil Revision Petitions have been filed under Article 227 of Constitution of India against common fair and decreetal order dated 20.03.2020 passed in I.A.Nos.05, 06 and 07 of 2020 in O.S.No.139 of 2008 on the file of the learned Principal District Munsif, Tiruvallur respectively.

3. The brief facts of the case is as follows:-

The deceased-1st respondent was the plaintiff in O.S.No.139 of 2008 and the petitioners are the 2nd, 5th and 6th defendants respectively. The 2nd, 3rd and 4th respondents are defendants 3,4 and 7 respectively. The suit is filed for declaration of right and title over the suit 'B' schedule property and



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for recovery of the same from the 4th respondent / 7th defendant and also for recovery of damages of Rs.500/- per month from the date of the suit till the date of recovery of possession and written statement and additional written statement were filed. Further, proof affidavit was filed by the 1st petitioner / 2nd defendant in the year 2011 and 2014 respectively. Further, I.A.Nos.5,6 and 7 were filed by the petitioners / defendants 2, 5 and 6 to re-open the evidence of the 1st petitioner for marking revenue document; to recall 1st petitioner, namely, Natarajan for the purpose of marking of revenue records and to condone the delay in filing those documents, respectively. The court below considered the submissions on either side, perused the pleadings and dismissed the said applications. As against the same, the petitioners have preferred the present Civil Revision Petition.

4. The learned counsel for the petitioners would submit that when the discretionary power has to be exercised judicially, the court below has to consider and allow the said applications for marking the documents , however, the same has not been done. Further, when there is an ambiguity arises for cross examination of witnesses, the court below has not considered the rulings produced by the petitioners. Moreover, the suit is for declaration and recovery of possession, the document which has been



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relied on by the petitioners is a vital one to prove that they were in the absolute possession and enjoyment of the suit property and it their duty to safeguard the interest of the purchaser and thereby sought to set aside the common order passed by the court below and allow the present Revision Petitions.

5. The learned counsel for the respondents would submit that the contention of the petitioners that the documents, which are sought to be marked are important to show that the 1st petitioner was in possession of the property and the averment of the petitioners that certain revenue records of the suit property were found while cleaning the house, are all concocted story. Earlier, in I.A.No.624 of 2018, the 4th respondent / 7th defendant filed an affidavit by stating the present petitioners have handed over the above said documents, hence, the petitioners are seeking to mark the documents by way of the applications and the said applications are rightly dismissed by the court below, thereby pleaded to dismiss the present petitions.

6. Heard the learned counsel on either side and perused the documents placed on record.



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7. On going through the order passed by the court below it is seen that the documents originally filed by the 4th respondent / 7th defendant and the present petitioner in I.A.No.3 of 2019 and I.A.No.4 of 2019 are public documents, which are available in the form of certified copies and the petitioners had ample time and opportunity to produce those documents during the filing of the written statement as well as during the evidence and when the petitioners had full knowledge of the facts, they failed to do so by raising the same at the earlier point of time, but now, after the witnesses have been cross examined completely and both sides evidences were closed, at the stage of arguments, the present petitions were filed, i.e, I.A.No.5, 6 and 7 of 2020 to rely on the revenue records, which shows a clear form of filling up lacunae on their evidence. Therefore, the said applications were dismissed by the court below.

8. It is relevant to note that the petitioners have failed to mark the said documents twice and this is the third occasion, the petitioners are trying to seek the Court's intervention for marking the said documents. While going through the said documents alleged to have been filed earlier and also now, this Court is of the view that except one document, all the



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other documents, viz., copies of fasli and adangal, sought to be marked, were prior to the initiation of the suit, the same cannot be accepted, because it is a public document, it is available at any point of time, the petitioners could have been approached the authorities for getting those documents. Therefore, this Court hereby rejects the same.

9. As far as the document, which has been relied on by the petitioners, i.e., notice dated 01.10.2019 sent by the Special District Revenue Officer of National Highway Department to the 1st petitioner herein, this Court is of the view that the said document alone shall be received by the court below, owing to the fact that the said document has been received by the 1st petitioner after initiation of the suit, therefore, the court below shall peruse the said document alone, viz., Notice issued by the Special District Revenue Officer of National Highway Department, receive the same and mark the said document, subject to the proof and relevancy, to enable the parties to agitate / putforth the case before the court below. The parties are also allowed to examine and cross examine the witnesses only with respect to the said document alone.



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With the above observations, the Civil Revision Petitions are disposed of. Consequently, connected miscellaneous petition is closed.

No costs.

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Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd

To

The Principal District Munsif,
Tiruvallur.



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V.BHAVANI SUBBAROYAN, J.,

ssd

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