



WEB COPY



CRP.No. 2010 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 2010 of 2020

and

CMP.No. 12469 of 2020

Fathima Beevi

.. Petitioner

Versus

Shahul Hameed

.. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 21.08.2020 passed in I.A.No. 256 of 2020 in O.S.No. 44 of 2015 on the file of the Sub Judge, Chidambaram.

For Petitioner : Mr.T. Saravanan

For Respondent : Mr.P. Srividhya
for Mr.A. Muthukumar



CRP.No. 2010 of 2020

WEB COPY

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order dated 21.08.2020 passed in I.A.No. 256 of 2020 in O.S.No. 44 of 2015 on the file of the Sub Judge, Chidambaram.

2. The revision petitioner herein is the 1st defendant and the respondent herein is the plaintiff in the original suit proceedings.

3. The respondent/plaintiff has filed the suit in O.S.No. 44 of 2015 before the Principal Subordinate Judge, Chidambaram, for declaration declaring the plaintiff's absolute title to the suit properties and for permanent injunction restraining the defendants and their men from in any manner interfering with the plaintiff's possession and enjoyment of the suit properties. The defendants 1 & 2 have contested the suit by filing written statement and denied all the averments made in the plaint. Additional written statement has also been filed by the 1st defendant as well as reply statement was also filed by the plaintiff in the suit proceedings. During the pendency of the suit proceedings, the revision



CRP.No. 2010 of 2020

petitioner/1st defendant has filed I.A.No. 255 of 2020 under Rule 76 of the Civil Rules of Practice read with Section 151 of CPC., seeking to send for the original register of Document Nos. 538 of 1927 and 983 of 1932 and Encumbrance Certificate Nos. 590 & 592 of 2014 from the Sub Registrar, Parangipettai and I.A.No. 256 of 2020 was filed under Rule 76 of the Civil Rules of Practice read with Section 151 of CPC., seeking to send for the File in Na.Ka.No. 1787/௧1/2014 with orders passed thereon from the District Registrar, Chidambaram. After perusing the records, the trial Court allowed I.A.No.255 of 2020 and dismissed the I.A.No.256 of 2020 by common order dated 21.08.2020. Aggrieved by the said order in I.A.No.256 of 2020 dated 21.08.2020, the revision petitioner has filed the present Civil Revision Petition.

4. According to the petitioner, the suit was filed by the respondent/plaintiff for declaration of title and for permanent injunction. The petitioner is the 1st defendant in the suit. Her contention is that the Doc.No.538/1927, Doc.No.983/1932 and Encumbrance Certificate Nos.590 and 592 of 2014 were fabricated by the Sub Registrar, Rajendran of Parangipettai to support the case of the respondent/plaintiff



CRP.No. 2010 of 2020

and those documents have to be send for perusal of this Court and she also calls for another document which is the File in Na.Ka.No. 1787/ஆ1/2014 with orders passed thereon from the District Registrar, Chidambaram, which is an alleged departmental proceedings against the said Rajendran, Sub Registrar, Parangipettai. His contention is that the Sub Registrar, Parangipettai had intentionally misused his power and tampered and fabricated the above said four documents.

5. On the other hand, the contention of the respondent/plaintiff is that the crux of the suit lies upon the identification of the suit properties and for that purpose, Document.Nos.538/1927 and 983/1932 are essential. The certified copy of Document No.538/1927 was marked as Ex.A1 in the suit and the Document No. 983/1932 was marked as Ex.A2. The contention of the revision petitioner is that the Encumbrance Certificate Ex.A16 contains some insertions made by the then Sub Registrar, Parangipettai to suit the case of the respondent/plaintiff. He compares the Encumbrance Certificate Ex.A16 with that of his Encumbrance Certificate Ex.B1 to state that there are so many differences in the boundaries and that the Encumbrance Certificate



CRP.No. 2010 of 2020

Ex.A16 has also been fabricated. In these circumstances, to give a final quietus to the suit regarding the description of the properties and for proper appreciation of facts in issue, the said 4 documents stated by the petitioner can be sent for in Doc.Nos.538/1927 and 983/1932 and the Encumbrance Certificate Nos.590 & 592 2014 from the Sub Registrar, Parangipettai. Moreover, the merits of the arguments can be tried in the suit.

6. On a perusal of the documents, it reveals that the suit was filed by the respondent/plaintiff for declaration of title and for permanent injunction. The defendants 1 & 2 have filed detailed written statement and contested the case. The contention of the revision petitioner is that the documents in question are namely, (i) Doc.No.538/1927, (ii) Doc.No.983/1932, (iii) Encumbrance Certificate No.590 and (iv) Encumbrance Certificate No.592 of 2014. The petitioner/1st defendant obtained Encumbrance Certificate E.C.No.1993 of 2011, dated 29.11.2011, E.C.No. 1859 of 2014 dated 09.09.2014, E.C.No.356/2015, dated 25.02.2015, E.C.No.897/2016 dated 26.04.2016 and E.C.No. 773 of 2018 dated 12.03.2018. These documents will prove that there are no



CRP.No. 2010 of 2020

WEB COPY

transactions as alleged by the respondent/plaintiff and Doc.No.538/1927 (Ex.A1), Doc.No.983/1932 (Ex.A2), Encumbrance Certificate No.590/2014 and Encumbrance Certificate No. 592/2014 are tampered/fabricated. The Sub Registrar, namely, Rajendran, intentionally misused his power and tampered/fabricated the documents to suit the case of the respondent/plaintiff. The petitioner/1st defendant has already given a complaint against the Sub Registrar with regard to mal-practice and the Department has also taken disciplinary action under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The above said File is with the District Registrar, Chidambaram. The said file is to be produced before the Court and the said documents are very essential and vital for the case.

7. It is also seen that the respondent/plaintiff, while objecting these applications, stated that the comparison of description of the properties in Ex.A16 and Ex.B1 filed by the petitioner will disclose that the petitioner/1st defendant has deliberately given wrong boundaries to obtain the Encumbrance Certificates, which will not reflect the correct details relating to the suit properties. His contention is that on



CRP.No. 2010 of 2020

comparing Ex.A16 and Ex.B1, it will disclose that the two properties are same and in Doc.No. 983/1932, the same properties is described as Item No.3 and that there are no old or new survey numbers. His contention is that there are no materials to show that the extent of the properties is 11 cents or that there are wrong description of boundaries. The allegation against the Sub Registrar, Rajendran is deliberately malicious and without any proof and none of the documents are fabricated. It is his further contention that applying of certified copies of Document Nos. 538/1927 and 983/1932 are enough and it is not known as to why the petitioner has applied for Encumbrance Certificates with wrong boundaries. It is also seen that none of the witnesses were examined and no documents were filed by both sides.

8. The contention of the revision petitioner is that the disputed documents are Ex.A1 and Ex.A2 which are of the year 1927 and 1932 respectively and in Ex.A1, there is no old survey number or new survey number or the extent, but the Encumbrance Certificate Ex.A16 obtained by the respondent/plaintiff contains an old survey number and new survey number, which had been inserted by the own intention of the Sub



CRP.No. 2010 of 2020

Registrar, Parangipettai and in Ex.A2, also the same forgery has crept in and that according to Doc.No.Ex.B1 Encumbrance Certificate, there were no such transaction and that Ex.A16 Encumbrance Certificate is fabricated by the plaintiff to put up his false case and so the documents mentioned by the petitioner ought to be called for from the Sub Registrar, Parangipettai to cull out the truth and to resolve the real dispute.

9. On the other hand, the contention of the respondent/plaintiff is that no such forgery has been committed either by the respondent or by the Sub Registrar, Parangipettai and that the petitioner has mis-directed himself to suit his own case by giving wrong boundaries and survey number while applying for his Encumbrance Certificate and in the document of the years 1927 and 1932, the properties was not described actually by the survey number and that the petitioner has obtained the Encumbrance Certificate only to mislead the Court for the purpose of this case. At the same time, the disciplinary proceedings stated to have been initiated against the then Sub Registrar, Parangipettai, namely, Rajendran, is not relevant to dispose of the suit and hence the said document, namely, File in Na.Ka.No.1787/Aa1/2014 with the orders



CRP.No. 2010 of 2020

passed thereon from the District Registrar, Chidambaram, is not essential. Therefore, the trial Court has rightly come to the conclusion and dismissed the application. The CRP fails as there is no illegality or irregularity in the order passed by the trial Court.

10. Accordingly, the Civil Revision Petition is dismissed. The trial Court is directed to dispose of the suit in O.S.No.44 of 2015 on the file of the Sub Judge, Chidambaram, as expeditiously as possible, without giving any unwanted adjournments to the parties concerned. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

20.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes/No
msm

To

1. The Sub Judge, Chidambaram.
2. The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



CRP.No. 2010 of 2020

V.BHAVANI SUBBAROYAN, J.

msm

CRP.No. 2010 of 2020

20.02.2023