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CRP.No. 3096 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

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

CRP.No. 3096 of 2022

and

CMP.No. 16637 of 2022

R. Paramasivam

.. Petitioner

Versus

Chinnatambi @ Palaniappa Goundar

.. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, prays to set aside the order dated 02.09.2022 made in I.A.No. 4 of 2022 in O.S.No. 77 of 2017 on the file of the Principal District Munsif, Tiruchengode.

For Petitioner : Mr.E.P. Senniyangiri

For Respondent : Mr.C.Ravichandran



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ORDER

This Revision is filed seeking to set aside the order dated 02.09.2022 made in I.A.No. 4 of 2022 in O.S.No. 77 of 2017 on the file of the Principal District Munsif, Tiruchengode.

2. According to the petitioner/plaintiff, at the time of filing of the suit, the petitioner/plaintiff had filed all the documents, which have been marked as exhibits. At that time, the respondent/defendant neither challenged the genuineness nor disputed the correctness of the said documents, either in the written statement or in the cross examination of the plaintiff's side witness and in the chief examination affidavit filed by the defendant as defendant's side witness. Moreover, the respondent/defendant in his written statement never disputing the correctness of Revenue Records exhibited on the side of the plaintiff. Therefore, the application filed by the respondent/defendant only to drag on the proceedings. The petitioner further submits that as per Sections 74 and 35 of the Indian Evidence Act, the Revenue Records are public documents which carry a presumption of correctness. Therefore, petitioner/plaintiff prays to set aside the findings of



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the trial Court.

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3. Per contra, the respondent/defendant the application was filed by to examine the Tahsildar and Village Administrative Officer of Illupuli Village. Further, the plaintiff in the suit stating that the defendant is leaseholder and he has to deliver the possession of the suit property. The plaintiff has marked several documents which including village Revenue Records and the records are to be incorrect on the face of the record and evidence. Hence, the respondent/defendant prays to permit him to examine the above said witnesses and therefore, the above Revision has to be dismissed.

4. Heard both sides and perused the records.

5. On a perusal of the records, it is seen that the petitioner/plaintiff has filed the suit in O.S.No. 77 of 2017 before the Principal District Munsif, Tiruchengode, for recovery of possession against the respondent/defendant. The defendant has contested the suit by filing written statement denying all the averments made in the plaint. While pending the suit, the respondent/defendant has filed the application in



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I.A.No. 4 of 2022 under Order 16, Rule 1 CPC. After perusing the records, the trial Court allowed the application by order dated 02.09.2022. Aggrieved by the same, the petitioner/plaintiff has come forward with the present Civil Revision Petition.

6. It is further seen that the respondent/plaintiff has filed the suit for recovery of possession. The case was posted for cross examination of the defendant's side witnesses. At this juncture, the respondent/defendant has filed the application to examine the Tahsildar and Village Administrative Officer. While that being the case, the petitioner/plaintiff has exhibited the documents from his side which were issued by the above said Tahsildar and Village Administrative Officer. After plaintiff's side evidence was over, the respondent/defendant filed the application to examine the above said witnesses and challenged the exhibits, marked by the petitioner/plaintiff. Even if the documents are public documents under Section 74 of the Indian Evidence Act, which carry a presumption of correctness under section 35 of the Indian Evidence Act, there is no bar to examine the persons who are the author of the documents. But the respondent/defendant has to substantiate his case only by letting appropriate evidence at the time of trial. To prove



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the said documents by examining the said witnesses who will be the right persons issued the veracity of the documents. The learned counsel for the petitioner contended that he has filed a copy of the deposition before the trial Court to show that though the defendant has cross examined the plaintiff's witness at length, no suggestion was put to the petitioner questioning the genuineness or otherwise of the Exs.P4 and P5. However, the respondent/defendant has filed an application to summon the Revenue Officials to examine in respect of the documents filed by the petitioner/plaintiff. Therefore, it is left open to the parties to cross examine the witnesses within a period of one week. Hence, there is no need to interfere with the impugned order passed by the trial Court.

7. Taking into the above facts and circumstances of the case, and the submissions made by the learned counsel on either side, it is left open to the parties to cross-examine the Tahsildar and the Village Administrative Officer of the Revenue Officials in respect of the disputed documents issued by the Competent Authority. After examining the witnesses, the trial Court is directed to dispose of the suit in O.S.No. 77 of 2017 pending on the file of the Principal District Munsif, Tiruchengode, after hearing



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both the parties without giving unnecessary adjournments, within a period of six months from the date of receipt of a copy of this order.

8. With the above directions, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

08.08.2023

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

To

1. The Principal District Munsif, Tiruchengode.
2. The Section Officer, V.R. Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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