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CRP No.4113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4113 of 2023
and
C.M.P. No. 25113 of 2023

M.Rajkumar

... Petitioner

Versus

- 1.Sivagami @ Sivagami Ammal
- 2.Annapoorani
- 3.Shanmugasundaram
- 4.The District Collector,
Coimbatore-641 018.
- 5.The Tahsildar
Coimbatore South Taluk,
Perur, Coimbatore-641 018.

...Respondents

Civil Revision Petition filed Under Article 227 of the Constitution of India, praying to set aside the order of the I-Additional District Court, Coimbatore made in I.A.No.2 of 2023 in O.S.No.452 of 2021 dated 31.07.2023.

For Petitioner : Mr. S.Sithirai Anandam



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ORDER

The petitioner has filed this revision petition to set aside the order dated 31.07.2023, passed by the learned I-Additional District Judge, Coimbatore made in I.A.No.2 of 2023 in O.S.No.452 of 2021.

2. Heard, Mr.S.Sithirai Anandam, learned counsel for the petitioner and perused the materials available on record.

3. The 2nd plaintiff has filed I.A.No.2 of 2023 under Rule 75 of the Civil Rules of Practice praying to issue summons to the Thasildar, Perur and call the records relating to the mutation of Revenue Records in favour of 1st defendant, consequent to the order passed by the learned District Munsif Court, Coimbatore in O.S.No.1569 of 2009. The reason assigned by the 2nd plaintiff, is that they have filed the suit to declare them as absolute owners of the suit property and declare the suits O.S.Nos.1920 of 1987 & 1569 of 2009 as null and void and also to declare the settlement deed that stands in the name of D1 also as null and void. The reason assigned by them is that by getting ex-parte decree in O.S.No.1569 of 2009, the 1st defendant after getting ex-parte decree against Tahsildar, obtained patta and on the strength of the same, he



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made false claim over the suit property and inspite of limited approach to the Thasildar, he failed to dispose of the proceedings. Hence, necessity arose for him to get the details for the mutation of Revenue Records. He filed I.A.No.2 of 2023 to issue summons to the Thasildar, Perur and to call for the records relating to mutation of Revenue Records which stands in the name of D1. The said application was dismissed by the learned trial Judge holding that the suit filed in the year 2014, same was transferred and re-numberd as O.S.No.452 of 2021. The respondent in O.S.No.452 of 2021 i.e., the plaintiff sought to call for the records which were said to have been obtained in the year 2009 and the reason also has not been specifically mentioned, and accordingly the Court below dismissed I.A.No.2 of 2023.

4. On a bare perusal of the records, it reveals that, 1st defendant obtained ex-parte decree against the Thasildar by way of mandatory injunction praying to issue separate Patta. Accordingly, he obtained Patta. Admittedly, decree is ex-parte one and there is no adjudicate issue between the parties and there is no discussion about the title of the property. The learned trial Judge in O.S.No.1569 of 2009 simply granted a order and as such, it is erroneous one. On the face of the records, the reasons assigned by the petitioners are justifiable. If records are not called for, his valuable right to protect the



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property will be defeated. The learned trial Judge is directed to considering the same.

5. Hence the impugned order passed by the learned trial Judge in I.A.No.2 of 2023 in O.S.No.452 of 2021 is set aside. I.A. is allowed and the petitioner is directed to pay Batta, and records may be called for in the manner known to law.

6. Accordingly, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

20.11.2023

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1. The I-Additional District Judge, Coimbatore.

2. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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