



C.R.P. No.2632 of 2017 and
C.M.P. No.12574 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.2632 of 2017 and
C.M.P. No.12574 of 2017

- 1.Thanigachallam
- 2.Sakthivel
- 3.Gunasekaran
- 4.Poovaragavan
- 5.Manigandan
- 6.Kannan
- 7.Elumalai
- 8.Thavamani

... Petitioners

Vs.

- 1.State of Tamil Nadu
Rep. by its District Collector
Cuddalore District
Cuddalore
- 2.The Thasildar
Panruti Taluk
Cuddalore District
- 3.Dhanabakkiyam
- 4.The Director
Hindustan Lever Company Ltd
Door No.165/166, Back Bay Reclamation
Mumbai - 400 020
- 5.Tannex Power Generation Limited



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Rep. by its Director
No.54, 2nd Floor, Red Cross Building
Mandith Street
Egmore, Chennai - 600 008

- 6.Vellachchi
- 7.Shanmugam
- 8.Gunasundari
- 9.Deivasundari
- 10.Kanagavalli
- 11.Amutha
- 12.Kasthuri
- 13.Bupathi
- 14.Kasanda
- 15.Ellammal
- 16.Jeyasundari
- 17.Anbuselvi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.03.2017 made in I.A. No.1017 of 2016 in O.S. No.265 of 2009 on the file of District Munsif, Panruti.

For Petitioner	:	Ms.U.Anunitha
For Respondents	:	Mr.C.Jayaprakash, Govt. Advocate for R1 & R2 Mr.C.Jagadish for R3



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ORDER

The plaintiffs have filed a suit challenging the sale deed executed in favour of the defendants. According to the plaintiffs, the land in question is a panchami land and that the alienation is bad in law, whereas the defendants contend the opposite. The matter went to trial and the plaintiffs have summoned the Tahsildar, who in fact is the second defendant in the suit to testify and he had testified that the lands are not panchami lands. The trial of the case concluded whereinafter the plaintiff had taken out yet another application in I.A. No.1017 of 2016 for summoning the said Tahsildar and this was dismissed.

2. This court is informed that both sides have already addressed their argument in the suit and the matter was reserved for pronouncing the judgment. In the meantime, the case is posted for some clarification regarding court fee by the court. Indeed it is posted today before the court below.

3. Heard both sides and this court also perused the papers available on record.



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4. It is disappointing if not shocking that the trial court has allowed the plaintiffs to summon the Tahsildar, who is arrayed as the second defendant as a witness. The law is settled that neither side shall have the right to summon its opponent to tender evidence for oneself. But this flaw in procedure has already been committed and it will be a sin in procedure to let it happen a second time.

5. To conclude, this court does not intend to interfere with the order of the trial court and the same is confirmed. Accordingly, this civil revision petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

6. Inasmuch as the Tahsildar has been examined on the side of the plaintiffs perhaps this court only directs that the testimony of the Tahsildar be received as evidence of court witness and accordingly PW2 is directed to be treated as CW1.

13.04.2023

Asr



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To
The District Munsif, Panruti.

N.SESHASAYEE, J.,

Asr

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