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C.R.P.No.3907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3907 of 2023

and

C.M.P.No.24083 of 2023

S.Sanjeevi

...

Petitioner

-Vs-

1.K.S.Sampath

2.P.Manoharan

3.K.Raghavan

4.K.Anjee

5.A.R.Paranthaman

6.Ramakrishnan

7.The Tahsildar

Thirupathur Taluk Office

Thirupathur.

8.The Deputy Tahsildar

Thirupathur, Thirupathur District.

9.The Head Surveyor

Thirupathur.

10.The Village Administrative Officer

Kudiyanakuppam.



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11.The Village Administrative Officer
Athurkuppam.

12.The Sub Collector,
Thirupathur.

13.The District Revenue Officer,
Office of the District Revenue Officer
Vellore.

14.The District Collector
Vellore District, Vellore.

Kasthuri (deceased)

15.Ashok Kumar

16.Subash

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 14.08.2023 made in I.A.No.1 of 2023 in O.S.No.104 of 2009 on the file of the Principal District Munsif, Thirupathur.

For Petitioner : Ms.Elizabeth Ravi

ORDER

Challenging the impugned order passed in I.A.No.1 of 2023 in O.S.No.104 of 2009 by the learned Principal District Munsif, Thirupathur, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.



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2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed a suit in O.S.No. 104 of 2009 against the defendants 1 to 11 for the relief of declaration and other consequential relief. In that suit, the defendants appeared and contested the suit. Thereafter, the suit was dismissed. Against which, he preferred an appeal and the lower appellate court remanded back the matter to the trial court. Thereafter, the Revision Petitioner filed an application in I.A.No. 1 of 2023 seeking permission to examine Village Administrative Officer, Athurkuppam and Tahsildar, Natrampalli as witnesses on his side, but the said application was dismissed by the trial judge stating that as there was no relief against the revenue officials, so, there is no necessity to examine both witnesses. Challenging the said findings, the plaintiff preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that as per the remand order, he is entitled to adduce evidence on his side to prove his claim, so that, he filed the said application seeking permission to



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adduce evidence, but it was erroneously dismissed by the trial judge.

Hence, he prayed to set aside the findings of trial judge.

5. Records perused. On perusal of order passed by the trial judge, it reveals that in order to prove his title, the plaintiff taken steps to examine the revenue officials by filing an application under Order 16 Rule 3 of C.P.C. That application was not accepted by the trial judge stating that in respect of revenue records, the official witnesses need not be examined, since because the document itself speaks the truth by relying the proposition laid down by this court reported in **2013 (4) CTC 684**. But, on seeing the entire facts of the plaint, he filed a suit in the year of 2009 seeking for the relief of declaration and other consequential relief, more particularly, he wanted to prove his title, for that, he wanted to examine the revenue officials. If opportunity is not given to him, his valuable right to defend the case will be defeated. Moreover, the ratio laid down by this court in the referred authority cannot be taken into account by the trial judge at the stage of examination of witness itself. If any clarification needs in respect of revenue documents, the revenue officials are the right persons to depose the evidence in respect of particulars found in the



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document. Therefore, the reasons assigned by trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.1 of 2023 in O.S.No.104 of 2009 is set aside and the said application is ordered to be allowed. The Revision Petitioner/plaintiff is directed to pay batta to examine the witnesses within a period of one week from the date of receipt of copy of this order. Thereafter, the trial judge is directed to proceed with the trial as per manner known to law by giving opportunity to the other side to cross-examine the witnesses. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Principal District Munsif, Thirupathur.



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T.V.THAMILSELVI, J.

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