



C.R.P.(PD)No.4175 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.4175 of 2019

and

C.M.P.No.27177 of 2019

1.P.Natesan

2.N.Senthilraja

.. Petitioners

Vs.

1.The Commissioner and Special Commissioner
of Land Administration,
Chennai.

2.Director of Survey and Land Records,
Chepauk, Chennai- 600 005.

3.Assistant Director of Survey and Land Records,
Salem

4.District Survey Officer,
District Survey Office,
Namakkal.

5.Collector,
Collector's Office compound,
Namakkal.

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- 6.District Revenue Officer,
Collector's Office compound,
Namakkal
- 7.Revenue Divisional Officer,
Velur Road, Tiruchengode
- 8.Tahsildhar,
Komarapalayam Taluk Office,
Komarapalayam – 638 183
- 9.Superintending Engineer,
Superintending Engineer Office,
State Highways,
Suramangalam Road, Salem
- 10.Divisional Engineer,
Divisional Engineer Office,
Tiruchengode Taluk,
State Highways, Namakkal
- 11.Sub-Divisional Engineer,
Sub-Divisional Engineer's Office,
Tiruchengode Taluk,
State Highways, Bungalow Street,
Tiruchengode Town and Post
- 12.President,
Anangur Panchayath,
Anangur Village and Post,
Now Komarapalayam Taluk



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13. Block Development Officer,
Tiruchengode Panchayat Union,
Tiruchengode – 637 211

14. A.N. Natarajan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Final order passed in I.A.No.2 of 2019 in O.S.No.143 of 2011 on the file of the District Munsif Court of Tiruchengode, dated 04.11.2019.

For Petitioners : Mr.V.S.Kesavan

For Respondents : Mr.B.Tamilnidhi (for R1 to R13)
Additional Government Pleader (CS)

: No Appearance (for R14)

ORDER

O.S.No.143 of 2011 (presently re-numbered as O.S.No.212 of 2020 on the file of the learned District Munsif Court, Kumarapalayam) is a suit filed for declaration and for permanent injunction.



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2.The case of the petitioner is that Survey No.500/3 is a Grama Natham. The second petitioner's father had purchased the property by way of a registered sale deed on 17.03.1988. It is his claim that the second petitioner and the first petitioner constituted a hindu joint family. On that basis, in the subject matter of the suit, he had constructed a building and had been residing therein.

3.It is his further case that during the course of conducting UDR proceedings and survey, there were a lot of defects and mistakes which had crept in. Consequently, the new FMB prepared on the basis of the UDR survey shows, as if the plaintiff's property has encroached on the Pallapalayam Road. On this basis, he took out an application in I.A.No.2 of 2019 to produce either the certified copy or the originals of the following:

- (i)village plan,
- (ii) A register,
- (iii) co-relation register,
- (iv) gazette notification,



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- (v) survey notice given under the Boundaries and Surveys Act,
- (vi) the FMB of the property under old Natham,
- (vii) the present FMB after the survey done under the UDR,
- (viii) old chitta,
- (ix) present chitta,
- (x) present adangal,
- (xi) copy of the public notice issued for survey,
- (xii) copy of the tom-tom register maintained by the defendants and
- (xiii) the public notice with respect to the Natham survey for the suit schedule mentioned property.

The said application was dismissed. Against which, the present revision has been filed.

4.Heard Mr.V.S.Kesavan, learned counsel appearing for the petitioners and Mr.Tamil Nidhi, learned Additional Government Pleader appearing for the respondents 1 to 13.

5.I pointed out to the learned counsel for the petitioner that while the Court has the power to summon the documents, which are in the



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custody of the public officer other than the Court, under Rule 75 of the Civil Rules of Practice, summons for production of the same is not automatic.

6.The petitioner would have to state before the Court that he had applied for certified copies of the documents and the said certified copies are not readily available or has not been granted by the authorities. Nowhere in the affidavit it has been stated that an attempt was made for certified copies to be issued to the petitioner by the respondent. Therefore, the requirements of Rule 75(3) not having been satisfied, the petition filed by the respondent in I.A.No.2 of 2019 in O.S.No.143 of 2011 on the file of the learned District Munsif Court, Thiruchengode is not maintainable.

7.He ought to have originally sought for the documents and if the documents are denied it is only thereafter, he can take out an application for summoning of the same. As he has not complied with the condition precedent as required under Rule 75, the petition has to fail. It has been rightly dismissed by the trial Court and therefore, the order in I.A.No.2 of



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2019 dated 04.11.2019 is confirmed, but not for the reasons given by the learned trial Judge, but for the reasons found herein above.

8.The documents being public documents available with public authorities, if the petitioner makes out an application for grant of certified copies, Mr.Tamil Nidhi states that it will be considered in accordance with law. If after such application for certified copies are made and not granted, it is always open to the petitioner to renew the application under Rule 75(3). As for the present, such application is not maintainable and therefore, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
MKN 2/VS

To

The District Munsif Court,
Tiruchengode

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