



C.R.P(MD).No.136 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.136 of 2023

and

CMP(MD)No.628 of 2023

Sachitanantham

... Petitioner/Petitioner/Defendant

Vs.

Chettiyar Potuvadai, Swamimalai,
Rep by its Trustee C.Panjanathan,
S/o.Chokkalingam Chettiyar,
No.26, East Street Swamimalai,
Kumbakonam Taluk,
Thanjuvur district.

... Respondent/Respondent/Plaintiff

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition by setting aside the fair and decreetal order made in I.A.No.371 of 2022 in O.S.No.294 of 2011 dated 15.11.2022 on the file of the Additional District Munsif Court, Kumbakonam.

For petitioner : Mr.M.Thirunavukkarasu

ORDER

This petition has been filed to set aside the fair and decreetal order made in I.A.No.371 of 2022 in O.S.No.294 of 2011 dated 15.11.2022 on the file of the Additional District Munsif Court, Kumbakonam.



2.The petitioner is the sole defendant in O.S.No.394 of 2011 before the Additional District Munsif Court, Kumbakonam. The said suit has been filed by the respondent for recovery of possession of the suit schedule property. In the said suit, the petitioner was set ex-parte twice on 11.02.2015 and on 04.03.2017. Thereafter, these orders were set aside pursuant to which P.W.1 was cross-examined by the petitioner after seeking five adjournments. Thereafter, the petitioner moved I.A.No.371 of 2022 to receive the Additional Written Statement along with documents under Order VIII Rule 9 of CPC. The lower Court has dismissed the application on the ground that the petitioner is making out a new case by questioning the ownership/title over the suit schedule property. Before this Court, the petitioner has now produced the information gathered under RTI Act to demonstrate the suit land is “Government Poromboke” land. The respondent/plaintiff is not the owner of the property. Hence, he submits that there is no bar to rejecting the application for receiving Additional Written Statement.

3.Considering the argument advanced by the petitioner and also after having perused the document produced by the petitioner which includes the plaint in O.S.No.294 of 2011, this Court finds that the petitioner has dragged on the proceedings for more than decades. The plaintiff and the defendant



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witnesses have already been examined. The request of the petitioner for filing Additional Written Statement under Order VIII Rule 9 of CPC has been rightly rejected.

4.At the same time, considering the fact that the argument have not been advanced, liberty is given to the petitioner to file appropriate application re-open evidence to further cross-examine the plaintiff's witness and to mark document obtained under RTI Act through defendant witness. It is for the Court to come to a conclusion on merits as to whether the respondent/plaintiff is entitled for a decree as prayed for in O.S.No.294 of 2011. Such application shall be filed within a period of 15 days from the date of a receipt of a copy of this order. If such application is filed, the Court shall pass appropriate order on merits.

5.This Civil Revision Petition is dismissed with liberty to the petitioner. The Court shall endeavour to dispose the suit within a period of three months. No costs. Consequently, the connected miscellaneous petition is closed.

09.03.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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C.SARAVANAN,J.

dss

To

- 1.The Additional District Munsif Court,
Kumbakonam.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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