



CRP(MD).No.1673 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.203

CORAM

THE HON'BLE MR.JUSTICE *C.KUMARAPPAN*

CRP(PD)(MD).No. 1673 of 2019 and
CMP(MD).No.8650 of 2019

Karuppathal

Petitioner

Vs.

1.Ganesan
2.Lakshmanan
3.Ramasamy
4.Pandian
5.Chandra
6.The Tahsildar,
Dindigul Taluk,
Dindigul District.
7.The District Collector,
Dindigul District.
(respondents 5 to 7 are set ex-parte before the lower court)
Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the
Constitution of India against the fair and decreetal order made in I.A.No.01
of 2019 in O.S.No.19 of 2014 on the file of the Principal District Munsif



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Court, Dindigul, dated 15.07.2019.

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For Petitioner : Mr.D. Venkatesh

For Respondents 1 to 4: Mr.F. X. Eugene

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order, dated 15.07.2019 made in I.A.No.01 of 2019 in O.S.No.19 of 2014 on the file of the Principal District Munsif Court, Dindigul,

2. The revision petitioner herein is the petitioner / plaintiff before the trial Court. The respondents herein are the respondents / defendants before the Court below.

3. According to the petitioner, she has filed a suit for relief of declaration and injunction and also for injunction restraining the revenue Department not to change the patta. In which, the petitioner has also moved an application for an appointment of Commissioner, which was dismissed by the Court below. Hence, aggrieved with that order, the petitioner is before this Court.



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4. The learned counsel appearing for the petitioner would vehemently contend that the petitioner's suit property situated in old SF.No.169 / 2. Now, for that old SF No.169/2, corresponding new SF No. 169/4 was assigned. Therefore, in order to to prove such change they need an appointment of Commissioner.

5. However, the learned counsel appearing for the respondents would submit that Old S.No.169/2 has not been changed as S.No.169/4 and that said S.No.169/2 was assigned with New S.Nos.169/2A, 2A, 169/2A, 2B, 169/2B, 169/2C1, 169/2C2. Therefore, he has strongly objected the arguments made by the petitioner in respect of the New S.No. 169/4. It is also a submission of the learned counsel for the respondents that the petitioner's application for appointment of Commissioner has been filed after a long delay that too during the cross examination of the defendants side evidence.

6. I have given my anxious consideration of the submissions of the learned counsel appearing on either side and perused the materials available on record.



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7. From the submissions of either side, the very filing of an application has been necessitated to the petitioner only to prove the assigning of new S.No.169/4 to the old S.No.169/2. According to the petitioner, such a new assignment was disputed by the respondents. From the perusal of the plaint averments, though the petitioner has stated in respect of the old Survey Number and its new corresponding Survey Number, such factum was not disputed by the respondents in the written statement which was filed as early as during the year 2014. Further, the petitioner did not file any application for an appointment of Commissioner in this regard.

8. On perusal of commission application, in paragraph No.6 of the affidavit it has been specifically mentioned that, an application for appointment of commissioner necessitated to prove the assignment of new S.Nos. 169/2A, 2A, 169/2A2B, 169/2B, 169/2C1, 169/2C2 for the old S.No.169/2. Though the petitioner has stated such an averment in the petition they moved an application belatedly during 2019 after five years from the date of filing of the Written statement. Therefore, as rightly observed by the Court below when the issue is only respect of S.No.169/4 there is no necessity for the petitioner to prove the assignment of new



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Survey Numbers for S.No.169/2. Furthermore, even for the sake of arguments if we concludes that the same needs to be proved, since the revenue authorities being a party to the suit, the petitioner would have very well summon the documents from the respective officials and could establish the same. Therefore, considering the above aspect and also considering the fact that the said application is filed belatedly that too at the stage of cross examination of the defendants side evidence, this Court could not find any reason to interfere with the order passed by the Court below.

9. In the result, this Civil Revision Petition is **dismissed**. Since the suit is of the year 2014, the trial Court is directed to dispose of the same as expeditiously as possible. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.08.2023

Index : Yes / No
Internet : Yes / No
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To

The the Principal District Munsif Court, Dindigul.



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C.KUMARAPPAN, J.,

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