



C.R.P.(NPD).No.453 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.453 of 2019

and

C.M.P.No.3014 of 2019

S.Parvathi

... Petitioner

VS

1.Y.Chinnaiyya

Mahalingam (deceased represented by his
LRS respondents 4 to 9 herein)

2.Sabapathi

3.Govindhammal

4.M.Gowri

5.Dhevipriya

6.Dhivya

7.Sowmiya

8.Selva Ganapathi

... Respondents



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Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the Fair and Decreetal order dated 20.07.2018 in C.M.A.No.17 of 2011 on the file of the Subordinate Judge at Poonamallee reversing the Fair and Decreetal order dated 01.06.2011 in I.A.No.446 of 2011 in O.S.No.100 of 2011 on the file of the District Munsif at Ambattur and allow the above Civil Revision Petition.

For Petitioner : Mr.P.Suresh Babu

For Respondents : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the First Appellate Court allowing the appeal filed by the respondents by setting aside the order of Trial Court granting temporary injunction.

2. The petitioner herein filed a suit seeking permanent injunction restraining the respondents from interfering with her peaceful possession and enjoyment of the suit property and also other relief. Pending suit, the petitioner filed I.A.No.446 of 2011 seeking temporary injunction. The Trial



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Court allowed the application filed by the petitioner granting temporary injunction pending suit. Aggrieved by the same, the respondents herein filed an appeal in C.M.A.No.17 of 2011 on the file of the Subordinate Court, Poonamallee. The First Appellate Court set aside the order passed by the Trial Court and allowed the appeal. As a consequence, the application in I.A.No.446 of 2011 filed by the petitioner seeking temporary injunction was dismissed. Aggrieved by the said order, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a cultivating tenant in possession of the suit property and the possession of the petitioner was proved by old land records extract marked as Ex.P8 and the First Appellate Court without taking into consideration the old land records extract filed by the petitioner, erroneously set aside the order granting temporary injunction in favour of the petitioner.

4. It is seen from the records the petitioner has not produced any revenue records like Chitta or Patta for the suit property to prove her current possession. The petitioner only produced old land records extract marked as



Ex.P8, wherein, the name of petitioner's grandfather was mentioned as a cultivating tenant. However, in order to prove her possession on the date of filing of the suit, the petitioner has not produced any revenue documents.

5. On the other hand, the respondents produced Chitta and Patta and marked the same as Exs.R2 and R3. The First Appellate Court on perusal of Exs.R2 and R3, came to the conclusion that the name of one Gajendran was mentioned therein. When petitioner failed to prove her current possession by producing revenue records relevant to the year in which the suit was filed, the finding reached by the First Appellate Court that petitioner failed to prove her *prima facie* possession cannot be said to be incorrect. Therefore, I do not find anything to interfere with the order passed by the First Appellate Court.

6. Having regard to the fact the main suit is of the year 2011, this Court feels the ends of justice will be met by directing the Trial Court to dispose of main suit as early as possible. Therefore, the Civil Revision Petition is dismissed with a direction to the Trial Court to dispose of the suit as expeditiously as possible. It is also made clear the suit shall be disposed of by



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the Trial Court on its own merits without being influenced by any observation made in this revision. No costs. Consequently, the connected civil miscellaneous petition is closed.

22.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

1.The Subordinate Judge,
Poonamallee.

2.The District Munsif,
Ambattur.



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S.SOUNTHAR, J.

dm

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