



C.R.P. No.2714 of 2024 and C.M.P. No.14336 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.2714 of 2024 and C.M.P. No.14336 of 2024

1.Janaki

2.Kandasamy

3.Gopinathan

4.Pushpa

... Petitioners

VS

1.Mahadevan

2.Jeevanandham

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decretal order made in I.A. No.1 of 2023 in A.S. No.2 of 2021 dated 01.04.2024 on the file of the Subordinate Court, Cheyyar.

For petitioners

: Mr.D.Lakshmipathy

ORDER

This revision has been filed against the order dated 01.04.2024 passed by the learned Sub Judge, Cheyyar in I.A. No.1 of 2023 in A.S. No.2 of



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2021, dismissing the application filed under Order XLI Rule 27 of Civil Procedure Code seeking for production of additional evidence in Appellate Court.

2.The revision petitioners, who have filed an appeal in A.S. No.2 of 2021 against the order passed by the learned Additional District Munsif, Cheyyar in O.S. No.92 of 1997, are the applicants 2 to 5 in I.A. No.1 of 2023 in A.S. No.2 of 2021 on the file of the Subordinate Court, Cheyyar.

3.The case of the petitioners is that the petitioners' father Thirunavukarasu is the defendant in the suit in O.S. No.92 of 1997 and that during the pendency of the above appeal, Thirunavukarasu passed away and that his legal heirs/petitioners were brought on record in the appeal as appellants 2 to 5.

4.The suit in O.S. No.92 of 1997 was filed by the respondents for removal of encroachment in the housing plot and the Trial Court has decreed the suit in favour of the respondents and that the petitioners have filed the above I.A. No.1 of 2023 in A.S. No.2 of 2021 under Order XLI Rule 27 of



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C.P.C. stating that during the pendency of the suit, they were unable to get the computerised documents i.e. extract from the Town Survey Land Register and TSLR sketch in respect of the entire layout, relating to Block No.44 and Ward 'B' of Thiruvathipuram Town in respect of 'A' and 'B' schedule properties in the appeal.

5.The respondents/plaintiffs have filed a counter stating that the lands belonging to them were measuring East-West 27 feet and North-South 60 feet and that sufficient documents were filed before the Trial Court in proof of the same and based on which the judgment and decree have been passed. Further it was stated that the documents, sought to be marked in the appeal, were obtained after the judgment and decree were passed by the Trial Court and thereby, the application filed by the applicants 2 to 5 has to be rejected.

6.The Appellate Court, finding that the Original Suit was filed in the year 1997 as O.S. No.92 of 1997 and that the judgment and decree have been passed as early as on 03.08.2013 and that the documents sought to be marked, were obtained only during the year 2023 and finding that the petitioners have not complied with the requirements under Order XLI Rule



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27 of C.P.C., has dismissed the same. The Appellate Court has also held that absolutely there is no dispute about the first defendant's ownership over the suit properties. However, it was found that it is not the case of the petitioners/appellants that despite diligence, the documents now sought to be received were not within his knowledge and the same came to be known to the petitioners/appellants subsequently. Challenging the same, this revision has been filed.

7.Learned counsel for the petitioners/appellants would submit that the documents were obtained only in the year 2023 and thereby, this petition has been filed.

8.Heard Mr.D.Lakshmipathy, learned counsel for the petitioners/appellants and perused the materials available on record.

9.As rightly pointed out by the learned appellate judge that the suit has been filed as early as in the year 1997 and the judgment and decree have been passed on 03.08.2013. It is not the case of the petitioners that the



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appellate Court had refused the documents sought to be marked in the appeal during trial and it is also not the case of the petitioners that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not be produced by him, after the exercise of due diligence and after the decree was passed. The Appellate Court has rightly finding that the petitioners have not complied with the conditions required under Order XLI Rule 27 of C.P.C. has dismissed the petition.

10.I do not find any merit in this petition. Accordingly, this revision petition stands dismissed. Consequently, connected C.M.P. is closed. No costs.

05.08.2024

Index: Yes/No
vga

To

The Subordinate Court, Cheyyar.

A.D.JAGADISH CHANDIRA, J.

vga



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