



C.R.P.(PD).No.3659 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE

V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3659 of 2024

&

C.M.P.No. 19870 of 2024

Sellamuthu
...Petitioner

Vs.

Ramasamy

...Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the order in I.A.No.7 of 2023 in O.S.No.276 of 2022 dated 22.03.2024 on the file of the Additional District Munsif, Attur.



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For Petitioner : Mr. M.Sudhan.

ORDER

This Civil Revision Petition arises against the order passed by the learned Additional District Munsif, Attur, in I.A.No.7 of 2023 in O.S.No.276 of 2022.

2. O.S.No.276 of 2022 is a suit for declaration that the plaintiff has crystalised his right, title and interest to the suit property by virtue of adverse possession. According to the plaintiff, he had purchased some properties on 10.04.1973 and had taken possession of said properties on that very date. He states that prior to taking possession of the property, on 08.04.1973, the property was measured in the presence of one Muthu Gonder, the grand father of the defendant. The plaintiff pleads that the said Muthu Gonder had abandoned the



property as he did not have irrigation facilities to the suit property.

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3. The plaintiff would also plead that he has purchased the other portions of the suit property on 31.05.1974 and had been cultivating the suit property as this also forms a part of the larger extent of the property. According to the plaintiff, on 02.08.2022, the defendant came to the property and sought to dispossess the plaintiff claiming title over the same by virtue of it belonging to his ancestors. Hence, the suit.

4. On service of summons, the defendant took out an application for rejection of plaint. The ground on which the plaint was to be rejected was that the plaintiff has not produced any documents to substantiate the plea of adverse possession.



5. After receiving counter from the respondent / plaintiff the learned Trial Judge went on to dismiss the application. Hence, the revision.

6. Heard Mr.M.Sudhan for the civil revision petitioner / defendant.

7. Mr.M.Sudhan draws my attention to the certified copies of the plaint along with the typed set of papers. At Page No.39 of the typed set of papers, he points out that even when the plaint was presented on 18.08.2022, a return was made by the Registry of that Court in the following terms *“Any document in support of adverse possession claimed by the plaintiff to be produced. Hence returned.”*

8. The learned counsel pleads that as the Court itself raised an objection that the plaintiff has not produced any document to prove adverse possession, the suit on the file of the Additional District



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Munsif, Attur, deserves rejection.

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9. I have carefully considered the submissions of Mr.M.Sudhan for the civil revision petitioner and gone through the records.

10. It is no doubt true that the plaint was returned on 18.08.2022 and the plaintiff was called upon to produce the documents on which basis he claims to be in adverse possession of the property. I should also take note of the endorsement made by the learned counsel for the plaintiff on 14.10.2022. The learned counsel for the plaintiff has made an endorsement stating that the plaintiff will produce the document at the time of enquiry and on that basis he has represented the plaint. This endorsement has been found satisfactory by the Court and the learned Additional District Munsif, Attur also took the plaint on file and numbered it as O.S.No.276 of 2022.

11. Furthermore, the endorsement made by the Registry is a



ministerial act at the time of numbering the plaint. A ministerial act does not bind the Court on its Judicial side at the time of considering the application for rejection of plaint. To succeed in the plea of adverse possession, the plaintiff would have to prove that he was in open, hostile and continuous possession of the property for over statutory period. It could be in the form of oral or documentary evidence.

12. Under Order VII Rule 11 of the Code of Civil Procedure, there is no provision for rejection of the plaint for non filing of the documents. In fact, the Code of Civil Procedure itself contemplates the plaintiff to file a document at a subsequent period with the leave of the Court. This shows that failure to file a document is not fatal which might result in rejection of the plaint.

13. Furthermore, this Court in ***Selvaraj vs Koodankulam Nuclear Power Plant India - (2021) 5 MLJ 467*** has in clear and



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categoric terms held that returns made by the Registry of a Court cannot impinge upon the judicial work of the said Court. For the purpose of rejection of the plaint, I have to take the averments made in the plaint to be true. A reading of the averments made in the plaint shows that the plaintiff claims that after purchase of the property on 10.04.1973, he had not only occupied the property under purchase but also the suit property. *Whether the statement is true or not*, it is for the parties to agitate before the Trial Court.

14. In the result, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

The Additional District Munsif,
Attur.



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