



C.R.P. (PD) .No. 4017 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 4017 of 2024

&

C.M.P.No. 22092 of 2024

Raman

...Petitioner

Vs.

1.Karunakaran

2.Anandan

3.Settu

...Respondents

Prayer: Petition is filed under Article 227 of the Constitution of India against the order in I.A.No.4 of 2024 in O.S.No.123 of 2016 dated 14.08.2024, passed by the District Munsif, Chengam.

For Petitioner : Mr. B.Gopalakrishnan



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ORDER

This Civil Revision Petition arises against the order passed by the learned District Munsif, Chengam in I.A.No.4 of 2024 in O.S.No.123 of 2016 dated 14.08.2024.

2. O.S.No.123 of 2016 is a suit for declaration of title and for permanent injunction restraining the 2nd defendant not to interfere with the possession of the plaintiff and for a direction to the 5th defendant to delete the name of the 2nd defendant from the patta bearing No.352 with the respect to the suit property.

3. The case of the plaintiff is that a settlement deed has been executed by one Vavari @ Kariya Moopan in favour of Jagadeesa Moopan and Ganesa Moopan on 25.06.1958. On 31.05.1972, Venkatrama Moopan and Ramasamy Moopan, who are the sons of Vavari @ Kariya Moopan have executed a partition deed amongst themselves.



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4. On 25.09.1980, Venkatrama Moopan sold portion of the suit property to the 1st defendant. Thereafter, the 1st defendant sold the property to the 2nd defendant. In the meantime, the said Jagadeesa Moopan had purchased half share of the property from his brother Ganesa Moopan. Finding that their property had been dealt in an unauthorised manner by defendants 1 and 2, the suit came to be filed.

5. A written statement was filed stating that the pathway shown in the schedule is a common pathway and the plaintiff does not have exclusive right. The parties went for Trial, issues have been framed, evidence concluded and matter was posted for arguments. At that stage, an application has been filed by the 2nd defendant seeking for reopening the case to summon Government Officials, Panchayat President and further to appoint Advocate Commissioner to note down physical features alleging that the pathway has now become public pathway.



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6. After receipt of the counter, the learned Trial Judge dismissed the application. Hence, the revision.

7. It is a well settled position of law that no amount of evidence can be looked into by the Court, unless and until there is a plea to that effect in the written statement. A perusal of the written statement nowhere states that the suit pathway had been converted into public pathway by the Government. The 2nd defendant not having taken a plea in the written statement is barred from letting in any evidence to that effect. Due to the lack of any plea to that effect in the written statement, there is no question of re-opening the evidence.

8. I do not find any reason to interfere with the order of the learned Trial Judge. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

03.10.2024

Index : Yes/No
Internet : Yes/No
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To

The District Munsif,
Chengam.

V.LAKSHMINARAYANAN, J.



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