



C.R.P. (MD) No. 893 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 893 of 2024
and
C.M.P. (MD) No.4942 of 2024

Kamatchi

... Petitioner/
1st Defendant

-VS-

Marappan

... Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Section 225 of the Constitution of India, to set aside the impugned fair order and decretal order dated 13.02.2024 in I.A.No.3 of 2024 in O.S.No.71 of 017, on the file of the Principal District Munsif Court, Karur, Karur District.

For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.K.Suresh



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ORDER

The Civil Revision Petition is filed aggrieved by the order dated 13.02.2024 made in I.A.No.3 of 2024 in O.S.No.71 of 2017. By the said order, the petition filed by the petitioner to examine the Block Development Officer, Vennaimalai, was rejected by the Trial Court.

2. The learned Counsel for the petitioner would submit that the suit is filed with the prayer to declare the earlier decree as null and void and consequential injunction as against the defendants. The defendants have pleaded that they are in possession and enjoyment of the suit schedule property for the period of 77 years. In that view of the matter, when the plaintiff's case is that only after the year 1999, the defendants came into possession, to disprove the same, the petitioner had earlier filed I.A.No.2 of 2023 for production of the house tax receipts etc., in respect of the survey numbers. Earlier, the said application was allowed. However, when the witness came to the Box, namely, the Secretary of the concerned Panchayat, he produce the documents only after the year 2000 and submitted before the Court that as far as the documents prior to the year 2000 are concerned, they are in the custody of the Block Development Office and hence, this petition is filed. He would submit that when the rights of the parties having been determined by the order of the Court



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in the earlier I.A.No.2 of 2023, now the Trial Court ought not to have dismissed the application.

3. Per contra, Mr.K.Suresh, the learned Counsel appearing on behalf of the respondent would submit that absolutely no specific stand taken in the written statement about their continuous or long possession of 77 years. As a matter of fact, the written statement is one of bald denial without putting forth any case on behalf of the petitioner/defendant. He would further submit that as far as the house is concerned, the same is in existence of an area of five cents. The plaintiff himself has conceded the case as far as the said five cents are concerned. Therefore, nothing is going to alter the position by summoning or marking the house tax receipts in respect of the five cents of the land. This is nothing but an exercise of fishing expedition which is carried out by the defendant. In this case, the defendant has not even examined himself as a witness. Neither any other documents have been produced to prove their possession of the entire extent of 50 cents of the agricultural land. Therefore, the Trial Court is right in dismissing the plea of the defendant.

4. I have considered the rival submissions made on either side and perused the material record in the case.



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5. Though there is force in the submission of the learned Counsel appearing on behalf of the respondent that the defendant has not in detail pleaded about their long and continuous possession, considering the fact that the earlier I.A.No.2 of 2023 has been filed and the same having been allowed for the limited purpose of producing the house tax receipts in respect of the suit schedule property, I agree with the contentions of the learned Counsel for the petitioner that the present interlocutory application is the result of the answer given by the Secretary of the concerned Panchayat that records prior to the year 2000 is only with the Block Development Office. Therefore, to that extent, the prayer of the petitioner needs to be allowed. Further, at the same time, this Court takes notice of the fact that the suit is of the year 2017. The defendant, cannot be summoning one official witness after the other and permanently protract the proceedings. When this Court posed the question, the learned Counsel for the petitioner submits that this is the last official witness to be summoned on behalf of the defendant. The said statement is recorded. In view thereof, the apprehensions expressed by the learned Counsel for the petitioner to that extent can be warded off by giving specific time schedule for carrying out the exercise so that the suit proceedings can be completed and final judgment rendered in the suit.



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6. In view thereof, the Civil Revision Petition is allowed on the following terms:-

The impugned order dated 13.02.2024 made in I.A.No. 3 of 2024 in O.S.No.71 of 2017 shall stand set aside and I.A.No.3 of 2024 in O.S.No.71 of 2017 shall stand allowed and the concerned Block Development Officer shall be present before the Trial Court upon the witness summon being served to him, on such day, as indicated therein, with the records and the defendant shall examine him on the same day and if the plaintiff is willing, the cross-examination can also be conducted on the same day or such other short date as requested by the plaintiff and the entire further proceedings shall be conducted as expeditiously as possible.

Consequently, the connected Miscellaneous Petition is closed. No costs.

03.07.2024

Index : Yes
NCC : No

PKN



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D.BHARATHA CHAKRAVARTHY, J.

PKN

To

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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