



C.R.P(MD)Nos.862 and 863 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)Nos.862 and 863 of 2019

and

C.M.P(MD)Nos.5074 and 5075 of 2018

C.R.P.(MD)No.862 of 2019

1.S.K.Syed Ahamed

2.Kudha Mohammed

3.Habbi Mohammed

4.Nazrin Chithra

... Petitioners / Defendants 7, 10, 12 & 13

Vs.

1.Ganesan

2.Bala

3.Velammal

4.Seethalakshmi

5.Deisy Chandran

6.Ponnuraj

1/10



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7.Kovilpillai Asir Jayapaul

8.Selvin Rajkumar

9.A.K.Y.Syed Abdul Khader

10.V.K.Mohammed Ghouse (Died)

S.K.Zarina (Died)

11.V.V.Minerals,
Through its partner,
S.Jegadeesan,
S/o. A.S.V.Subbaiah Nadar,
Keeraikkaran Thattu,
Mahadevankulam Post,
Tisayanvilai,
Radhapuram Taluk,
Tirunelveli District.

12.Mohammed Baishal

13.Mohamed Fathima

14.M.Syed Sulthan Arifa

15.M.Aqueel Ahamed

16.M.Sirajul Muneer

17.M.Tariq Ahamed

... Respondents/Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated



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19.02.2018 passed in O.S.No.49 of 2010 on the file of Principal District
Munsif Court, Tirunelveli.

For Petitioner : Mr.M.P.Senthil
For R-1, R-2 &
R-4 : Mr.S.B.Kamalanathan
For R-13 to R-17 : Mr.P.Rajesh
For R-3, R-5 to
R-9, R-11 &
R-12 : No appearance
For R-10 : Died

C.R.P.(MD)No.863 of 2019

1.S.K.Syed Ahamed

2.Kudha Mohammed

3.Habbi Mohammed

4.Nazrin Chithra ... Petitioners / Defendants 7, 10, 12 & 13

Vs.

1.Selvamurugan ... 1st Respondent / Plaintiff

2.Deisy Chandran

3/10



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3.Ponnuraj

4.Kovilpillai Asir Jayapaul

5.Selvin Rajkumar

6.A.K.Y.Syed Abdul Khader

7.V.K.Mohammed Ghouse (Died) ...Respondents 2 to 7 / Defendants
1 to 6

S.K.Zerina (Died)

8.V.V.Minerals,
Through its partner, ... 8th Respondent / 9th Defendant
S.Jegadeesan,
S/o. A.S.V.Subbaiah Nadar,
Keeraikkaran Thattu,
Mahadevankulam Post,
Tisayanvilai,
Radhapuram Taluk,
Tirunelveli District.

9.Mohammed Baishal ... 9th Respondent / 11th Defendant

10.Mohamed Fathima

11.M.Syed Sulthan Arifa

12.M.Aqueel Ahamed

13.M.Sirajul Muneer

14.M.Tariq Ahamed ... Respondents



C.R.P(MD)Nos.862 and 863 of 2019

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 19.02.2018 passed in O.S.No.51 of 2010 on the file of Principal District Munsif Court, Tirunelveli.

For Petitioner : Mr.M.P.Senthil

For R-1 : Mr.S.B.Kamalanathan

For R-10 to R-14 : Mr.P.Rajesh

For R-2 to R-9 : No appearance

For R-10 : Died

ORDER

C.R.P.(MD)Nos. 862 and 863 of 2019 have been filed by the defendants in the respective suits, challenging an order passed in the Interlocutory Applications. The Trial Court had framed preliminary issue with regard to the pecuniary jurisdiction to entertain the said suits and has answered the same as against the defendants. Challenging the same, the revision petitions have been filed by the defendants from the respective suits.



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2. According to the learned counsel appearing for the revision petitioners / defendants, the suits have been filed seeking declaration of title and permanent injunction in Survey Nos. 53/2 and 59/1. According to the learned counsel appearing for the revision petitioners, Survey No. 53/2 has been plotted out and lay out was created even before 1988. As far as Survey No.59/2 is concerned, the said Survey number has been purchased by them and a college has been constructed in the said property. The learned counsel appearing for the revision petitioners had relied upon the conversion order issued by the Commissioner of Town and Country Planning dated 17.01.2005 and the consequential Gazette notification dated 18.06.2005 and 19.04.2006. The learned counsel appearing for the revision petitioners further relied upon the document dated 13.07.2006 which is a building plan approval, issued by the Commissioner of Tirunelveli Corporation for construction of a college. Therefore, according to him, the constructions have been completed even prior to the filing of this suit. Though these documents were placed on record along with the written statement, they were not brought to the notice of the Trial Court, at the time of considering the preliminary issue.



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3. However, the learned counsel appearing for the plaintiffs contends that those documents were never placed on record along with the written statement in both the suits.

4. A perusal of these documents indicate that there is some prima facie evidence with regard to the lay out and construction of the college in the said Survey numbers. However, it is not known whether these documents were placed before the Trial Court along with the written statement or not. Therefore, the Trial Court has answered the preliminary issue as against the defendants in the respective suits primarily on the ground that they have not placed on record any documents especially the fact that there is a layout or a college in the suit schedule property. Since these documents have been placed before this Court, this Court cannot ignore these documents, especially when they are public documents.



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5. Therefore, the orders passed by the Trial Court in both the

Interlocutory Applications are hereby set aside and the matter is remitted back to the Trial Court for fresh consideration. It is open to the revision petitioners to place on record these documents which can be controverted by the plaintiffs in the respective suits.

6. With the above observations, the Civil Revision Petitions stand allowed with liberty to the plaintiffs in the respective suits to contravene, genuineness and the relevance of these documents. No costs. Consequently, connected civil miscellaneous petitions are closed.

18.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml



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To

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1. The Principal District Munsif Court,
Tirunelveli.
2. The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

Sml

Order made in
C.R.P(MD)Nos.862 and 863 of 2019

18.06.2024