



C.R.P.(MD).No.2097 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.03.2024

DELIVERED ON : 04.06.2024

CORAM

THE HON'BLE MR. JUSTICE G.ILANGO VAN

C.R.P.(MD).No.2097 of 2023

and C.M.P.(MD).No.10580 of 2023

1.Renganayaki
2.Sathiyamoorthi

... Petitioners/Petitioners/3rd Party

Vs.

1.Boopathi
2.Naveen
3.Selvaraj
Ramasamy Gounder(Died)

... Respondents/Respondents/Plaintiffs

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.283 of 2021 in O.S.No.152 of 2014 dated 01.07.2023 on the file of the District Munsif Court, Oddanchatirm.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : No Appearance for R1 to R3

ORDER

This civil revision petition has been filed to set aside the order passed in I.A.No.283 of 2021 in O.S.No.152 of 2014 dated 01.07.2023



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on the file of the District Munsif Court, Oddanchatirm.

2.The facts in brief:

The suit in O.S.No.152 of 2014 is filed by the plaintiffs namely Boobathi and Naveen, who are the first and second respondents herein, seeking the relief of declaration declaring that the suit property belongs to them and recovery of possession of 30 cents allegedly under the encroachment of the defendants and for cost. The original defendants are one Selvaraj and Ramasamy Gounder, who are arrayed as third respondent Ramasamy Gounder is reported to be dead.

3.Pending the further proceedings I.A.No.283 of 2023 was taken out by these revision petitioners to implead themselves as party defendants 3 and 4. That came to be dismissed by the trial Court. Against which this revision has been preferred.

4.The brief averments made in the affidavit filed in support of the petition:

The third item of the suit property is situated in S.No.385/3A



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belongs to the proposed parties and sister, brother, etc. They are in joint possession of the properties. Patta was issued in their favour. Without impleading the revision petitioners, suit is filed by the respondents. If any decree is passed in favour of any one of the parties, then their right will be affected. Since they have interest in the subject matter, they must be impleaded.

5.That was resisted by the plaintiffs by filing counter stating that the suit property originally belongs to one Rengammal. She sold the property to one Jemimaseriyan on 16.11.1994. From Jemimaseriyan, they purchased the property on 07.09.2006. The suit was filed in the year 2017. The Commissioner was appointed. Later the second defendant reported to be dead. She also filed chief in affidavit. Without making cross examination, the defendant No.1 induced these revision petitioners to file a petition.

6.The trial Court after hearing both sides recorded a finding that there is a huge delay on the part of the revision petitioners in approaching the Court. The plaintiffs being the *dominus litis* he may not be compelled



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to implead the revision petitioners. No documentary proof is also produced to show that they are interested in the subject matter of the property.

7.The correctness of this finding is called in question in this revision. In spite of receipt of notice, the respondents did not appear. So the revision petitioner was heard.

8.During the course of hearing, the revision petitioner produced certain documents in the form of additional type set of papers. Wherein, he is referring to a partition deed dated 10.07.1990. It was entered between one Ramasamy Gounder and his sons. Wherein, reference is made to the survey number, which is the subject survey No.385/3A. It is referring to a borewell connection. And the patta proceedings dated 03.12.2014 are mentioned in the patta and the order passed by the Tahsildar, Palani. At the time of revision the additional documents may not be permitted. But, however, it is a finding by the trial Court that no documentary evidence were produced by the revision petitioner. I am of the considered view that the matter may be remitted back to the trial



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court for fresh consideration, granting liberty to the petitioner to produce the documents before the trial Court. So that the opposite party may also be given chance to contest the issue. So that a just decision can be taken by the trial Court.

9.On the sole ground the order passed by the trial Court is set aside the matter is the remitted back to the trial Court, with the liberty to the petitioner to produce the relevant documents and after affording opportunity to both sides, it may be decided afresh without being influenced by either of the two orders namely the order passed by the trial court or by the observation made by this Court.

10.With this above said directions, this revision stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2024

Index : Yes/No
Internet : Yes/No
TM



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WEB COPY

To

- 1.The District Munsif, Ottanchathiram.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

TM

PRE-DEIVERY ORDER MADE IN

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