



C.R.P.(MD)No.2153 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2153 of 2024

and

C.M.P.(MD)No.12239 of 2024

1.Mathi

2.Prabhu

3.Raja

4.Satheesh

5.Sivajothi

6.Vellaiyammal

7.Veerammal

... Petitioners / Petitioners 2 to 8 /
Defendants 2 to 8

Vs.

Arumugam Chettiar (Died)

1.Kanthamsamy Chettiar

2.Ananjia Jeyanthi

3.Shantha

4.Senthamarai Selvi

5.Aachimuthu

6.Gopi

7.Pappy

... Respondents 1 to 7 / Respondents / Plaintiffs

8.Muthu

... 8th Respondent / 1st Petitioner / 1st Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records in I.A.No.167 of 2024 in O.S.No.36 of 2017 and to



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set aside the fair and decreetal order dated 09-08-2024 passed by the District Munsif Cum Judicial Magistrate, Natham.

For Petitioners : Mr.V.Vijayasetpuathy

For Respondents : Mr.J.Antony Arulraj for R1, R3 to R7
No appearance for R2

* * *

ORDER

The defendants 2 to 8 in O.S.No.36 of 2017 on the file of the District Munsif Cum Judicial Magistrate, Natham are the revision petitioners herein. The said suit was filed by the respondents 1 to 7 herein claiming permanent injunction. In the said suit, the defendants filed I.A.No.167 of 2024 for summoning and examining the Tahsildar, Natham as a witness. The said IA was dismissed vide order 09.08.2024 by the Court below. Challenging the same, this civil revision petition came to be filed.

2.The learned counsel for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of the civil revision petition. He submitted that some of the suit schedule properties have been dedicated as gramathana properties and that the plaintiffs have no claim whatsoever on those



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items. In these circumstances, it is improbable that the jurisdictional Tahsildar could have issued patta in favour of the plaintiffs. The defendants want to elicit from the jurisdictional Tahsildar as to the circumstances in which patta came to be issued in favour of the plaintiffs. The learned counsel wanted this Court to set aside the impugned order and allow the civil revision petition.

3.Per contra, the learned counsel for the plaintiffs herein submitted that the impugned order does not call for interference.

4.I carefully considered the rival contentions and went through the materials on record. The purpose for which the revision petitioners want to examine the Tahsildar is to demonstrate that the plaintiffs do not have any title over the suit schedule properties.

5.The revision petitioners claim that they are cultivating tenants in respect of the suit schedule properties. I wanted to know who inducted the revision petitioners as cultivating tenants. The learned counsel for the revision petitioners submitted that their forefathers were inducted as cultivating tenants by the forefathers of the plaintiffs. Thus, it is conceded that the plaintiffs are the landlords. If that be so, Section 116 of the Indian Evidence Act corresponding



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to Section 122 of Bharatiya Sakshya Adhiniyam, 2023 would come in the way.

A tenant cannot be permitted to question the title of the landlord. That would be impermissible in law. That apart, in the written statement, no foundation has been laid in support of the IA prayer. For want of pleadings and in view of the prohibition in the law of evidence, the Court below chose to dismiss the IA. Convincing and sound reasons have been set out in the impugned order. Interference is not warranted and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ias

To:

The District Munsif Cum
Judicial Magistrate,
Natham.



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G.R.SWAMINATHAN, J.

ias

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