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REV. APLW.(MD) No.175 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV. APLW.(MD) No.175 of 2023

and

W.M.P.(MD)No.17787 of 2023

Ilaiyaperumal

... Petitioner

VS.

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer /
Additional District Executive Magistrate,
Madurai, Madurai District.

3.The Tahsildar,
Vadipatti Taluk,
Vadipatti, Madurai District.

4.The Head Surveyor,
Vadipatti Taluk,
Vadipatti, Madurai District.

5.Subbaih

... Respondents



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Review Application is filed under Article 226 of Constitution of India read with Section 114 and Order 47 Rule 1 and 2 of C.P.C. to review as against the order made in Writ Petition(MD) No.22064 of 2021, dated 19.07.2023, by this Court.

For Petitioner : Mr.S.Saravana Kumar
For R1 to R4 : Mr.M.Muthumanikkam
Government Advocate
For R5 : Mr.V.S.Kishok

ORDER

The present Review Application has been filed seeking review of the order dated 19.07.2023 passed in W.P.(MD)No.22064 of 2021.

2. The primary contention of the Learned Counsel appearing for the review petitioner is that the petitioner had already approached the Civil Court in O.S.No.160 of 2022 on the file of District Munsif Court, Vadipatti and the said suit was dismissed for default. But this Court recorded that the review petitioner had not approached the Civil Court, the relevant portion of the order states “The petitioner rather than approaching the Civil Court has filed the writ petition”. This Court is inclined to rectify the same. The next contention of the Learned Counsel appearing for the review petitioner is that again in paragraph No.6 this Court has recorded that



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the petitioner had approached the revenue authorities for rectification of patta but the correct fact is that the 5th respondent had approached for rectification. Therefore, this Court is inclined to rectify the same. Therefore, the paragraph 6 shall read as under:

“6. It is seen that based on the said sale deed the petitioner had changed the patta in his name for the land admeasuring 2 acres and 18 cents. But the petitioner is entitled only to 2 acres and 8 cents of land. Aggrieved over the same, the 5th respondent had approached the revenue authorities for rectification of the patta, but the respondents rejected the contention of the 5th respondent. In the meanwhile, the petitioner had approached the Civil Court in O.S.No.160 of 2022 on the file of District Munsif Court, Vadipatti and the said suit was dismissed for default. But the fact remains the petitioner had interpolated the measurement in the schedule of property as 2 acres 18 cents. But the body of the sale deed states the sale is only for 2 acres 8 cents. The numerical “1” is interpolated in the schedule of property alone. The petitioner in order to grab the land of the 5th respondent had committed criminal act and is seeking to legalise the illegal and criminal act by filing this writ petition. Therefore, the impugned order dated 05.01.2021 passed by the respondents is legally valid and the same is hereby confirmed.”

3. The next contention of the review applicant is to waive the cost or atleast reduce the cost and submitted that the alleged interpolation is only typographical



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error which is a mistake committed by the document writer and the same cannot be termed as criminal act. This Court had imposed a cost of Rs.20,000/- on the writ petitioner for the interpolation on the sale deed, since the petitioner has rectified the sale deed by inserting numerical “1” prior to numerical “8” so as to show he is in possession of 2 acres 18 cents. This Court is of the considered opinion such interpolation amounts to criminal act. Hence this Court is not inclined to waive the cost or reduce the cost.

4. The Learned Counsel vehemently submitted that writ petitioner was in possession of 2 acres and 16 cents right from the date of the document till today, hence he is entitled to the property to an extent of 2 acres 16 cents. It is seen that the petitioner keeps on changing the stand. It is the contention of the petitioner that he is entitled to 2 acres 16 cents since he is in possession from the date of purchase. It is the contention of the petitioner that he is entitled to 2 acres 18 cents since the schedule of the document states 2 acres 18 cents. This Court is of the considered opinion that the long possession of 2 acres 16 cents will not give any right to the petitioner to possess 2 acres 16 cents. Also, the interpolation of 2 acres 18 cents in



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schedule of property will not give any right to the petitioner, rather it amounts to usurping the land of the 5th respondent and the said act of the petitioner is absolutely criminal act. This Court cannot give any legal sanctity for such criminal act. The petitioner is entitled only to 2 acres 8 cents alone. Infact even in the review grounds would indicate the stubborn attitude of the petitioner and he is still adamantly stated he is entitled to 2 acres 18 cents. This Court is of the considered opinion the petitioner cannot be allowed to hold others' land, when the document clearly states that he is entitled to 2 acres 8 cents only. Therefore, this Court is not inclined to delete the cost imposed on the petitioner in the writ petition.

5. The review applicant's intention is to bargain with the 5th respondent to sell the land. Even while hearing the review application, the review applicant and his men were suggesting the 5th respondent to sell the property to the petitioner through amicable settlement. This Court is of the considered opinion that the review applicant is not suggesting any "amicable" settlement but it is absolutely an act of harassing the land holder to sell the property and is making the Court a party for his illegal act, which can never be allowed.



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6. Apart from the cost imposed in the writ petition, this Court is inclined to impose a cost of Rs.5,000/- in the present review application. However, the Learned Counsel appearing for the review applicant pleaded against the imposition of cost. Therefore, this Court reduces the cost to Rs.1000/- and the same is payable to the creche attached to the Madurai Bench of Madras High Court. Apart from paying the cost of Rs.20,000/- to Saksham as stated in the writ order, the review applicant is directed to pay Rs.1000/- to creche attached to the Madurai Bench of Madras High Court.

7. For the reasons stated supra, this Court is dismissing the review application except for the modification of paragraph 6 of the writ order. Consequently, connected miscellaneous petition is closed.

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S.SRIMATHY, J.

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