



C.R.P. (MD).Nos.2039 and 2040 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)Nos.2039 and 2040 of 2021

and

C.M.P(MD) No.10930 of 2021 in C.R.P(MD) No.2039 of 2021

C.R.P(MD) No.2039 of 2021:

1. Chellammal
2. Kuppaian
3. Kalimuthan

Rakkan (Died)

4. Sornavalli
5. Saravanan

... Petitioners/Petitioners
/Defendants 1 to 3, 9 and 10

-VS-

1. Palani

... 1st Respondent/ 1st Respondent /Plaintiff

2. The Deputy Commissioner,
Section of Land Reformation,
Nagarpula Nilavari Aluvalagam,
Madurai.

3. The District Collector,
Sivagangai District.

4. The Tahsildar,
Devakottai,



C.R.P. (MD).Nos.2039 and 2040 of 2021

Sivagangai District.

5. The Village Administrative Officer,
Theralapoor Village,
Devakottai,
Sivagangai District.

... Respondents 2 to 5/
Respondents 2 to 5/
Defendants 5 to 8

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 28.10.2021 made in I.A.No.13 of 2020 in O.S.No.124 of 2012 on the file of the learned District Munsif, Devakottai.

For Petitioners : Mr.J.Anandkumar
for Mr.S.Sekar

For R1 : Mr.C.M.Mari Chellaiah Prabhu

For R2 to R5 : Mr.C.Satheesh
Government Advocate

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-VS-

1. Palani ... 1st Respondent/ 1st Respondent /Plaintiff
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3. The District Collector,
Sivagangai District.
4. The Tahsildar,
Devakottai,
Sivagangai District.
5. The Village Administrative Officer,
Theralapoor Village,
Devakottai,
Sivagangai District. ... Respondents 2 to 5/
Respondents 2 to 5/
Defendants 5 to 8

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 28.10.2021 made in I.A.No.14 of 2020 in O.S.No.124 of 2012 on the file of the learned District Munsif, Devakottai.

For Petitioners : Mr.J.Anandkumar
for Mr.S.Sekar

For R1 : Mr.C.M.Mari Chellaiah Prabhu

For R2 to R5 : Mr.C.Satheesh



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Government Advocate

COMMON ORDER

The present Civil Revision Petitions have been filed by the defendants 1 to 3, 9 and 10 in O.S.No.124 of 2012 on the file of the District Munsif Court, Devakottai, challenging the orders passed in I.A.Nos.13 and 14 of 2020.

2. The first respondent herein as plaintiff has filed the above suit for the relief of declaration of title and permanent injunction. The defendants have filed the written statement contending that in the hands of the vendor of the plaintiff, the lands in subject matter of the suit have been declared as surplus under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961. Thereafter, proceedings have been initiated by the fifth defendant under the disposal of Surplus Land Rules for granting assignment of the said land in favour of the defendants. The defendants have further contended that the plaintiff had purchased the property after notifications have been issued under the Land Reforms Act. Therefore, the defendants have contended that the plaintiff has no title to the property.



C.R.P. (MD).Nos.2039 and 2040 of 2021

WEB COPY

3. In order to substantiate their claim, an Officer from the District Collectorate, Sivagangai District was examined as one of the defendants's side witnesses. However, it is the statement of the said Officer that since the lands have been subjected to acquisition under the Land Reforms Act, they are not having any records. This has prompted the defendants to file the applications in I.A.No.13 of 2020 to reopen the defendant side further evidence and I.A.No.14 of 2020 to examine the Commissioner of Land Reforms, Chennai, as one of the witnesses on the side of the defendant so as to prove that acquisition proceedings had already been initiated under the Tamil Nadu Land Reforms Act 58 and 61. However, those applications have been rejected by the trial Court on the ground that the applications are abuse of process of Court and reopening of the hearing shall not be allowed routinely. Challenging the same, the present Revision Petitions have been filed by the defendants.

4. According to the learned counsel appearing for the petitioners/ defendants, the Court has not considered the merits of the application filed by



C.R.P. (MD).Nos.2039 and 2040 of 2021

the defendants to the effect that the Collectorate Office was not able to lay their hands upon the records relating to the Acquisition Proceedings under the Land Reforms Act. In such circumstances, the defendants did not have any other mode of proving the acquisition proceedings except by examining the Land Reforms Commissioner, who can produce the documents relating to the said acquisition proceedings. Hence, he prayed for allowing these two applications.

5. Per contra, the learned counsel appearing for the respondents in the revision petitions contended that the official from the District Collector has already been examined and certain documents have been filed on the side of the defendants to show that they have received notices from the Land Reforms Department. In such circumstances, no purpose would be served in calling upon the Commissioner from Chennai. He further contended that the defendants cannot use the Court proceedings to collect evidence from the Government Department. Hence, he prayed for sustaining the orders passed by the trial Court.

6. I have carefully considered the submissions made by the learned



C.R.P. (MD).Nos.2039 and 2040 of 2021

counsel on either side and perused the materials available on record.

7. The facts narrated above would clearly indicate that the defendants are denying the title of the plaintiff on the ground that the lands have been declared to be surplus at the hands of the plaintiff's vendor. Therefore, unless the official from the concerned Department is examined, it will be very difficult to establish the fact that whether the lands have been subjected to the acquisition proceedings under the Land Reforms Act or not. In fact, the plaintiff himself has impleaded the Assistant Commissioner, Land Reforms, Urban Land Tax Office, Madurai/ 5th defendant in the suit, probably, knowing well that the lands were subjected to acquisition proceedings under the Tamil Nadu Land Reforms Act. In such circumstances, the trial Court ought to have considered the merits of the application instead of dismissing the same on the technical ground of the scope of proceedings under Section 151 of C.P.C.

8. In view of the above said facts, the orders impugned in the revision petitions are hereby set aside. Any competent official from the Land Reforms Department, who are concerned with the Sivagangai District, can be examined by the defendants and the plaintiff would be entitled to cross



C.R.P. (MD).Nos.2039 and 2040 of 2021

examine. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above said observation, this Civil Revision Petitions stand allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

06.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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2/2

To

1. The District Munsif Court,
Devakottai, Sivagangai District.
2. The Deputy Commissioner,
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Nagarpula Nilavari Aluvalagam,
Madurai.
3. The District Collector,
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5. The Village Administrative Officer,
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R.VIJAYAKUMAR,J.

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C.R.P.(MD)Nos.2039 and 2040 of 2021



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C.R.P. (MD).Nos.2039 and 2040 of 2021

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2/2