



C.R.P.(MD)No.3317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/01/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.3317 of 2023

and

CMP (MD) No.17133 of 2023

K.P.Seeni : Petitioner/Petitioner/
2nd Defendant

Vs.

1.K.P.Subburaj : 1st Respondent/1st Respondent/
Plaintiff

K.P.Kanthasamy (died) : Deceased 2nd Respondent

2.K.P.Selvam : R2 and R3/R3 and R4/
3.Vairamuthu : Defendants 3 and 4

4.Saraswathy : Respondents 4 to 6/
5.Premkumar : Respondents 5 to 7/
6.Prabakaran : Defendants 5 to 7

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A No.06 of 2023 in O.S No.8 of 2018 on the file of the Additional District Court, Virudhunagar, dated 05/09/2023.

For Petitioner : Mrs.P.Jessi Jeeva Priya

For 1st Respondent : Mr.S.Thirupathy

For R2 to R6 : No appearance



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O R D E R

WEB COPY This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 05/09/2023 passed in I.A No.06 of 2023 in O.S No.8 of 2018 by the Additional District Court, Virudhunagar.

2.The facts in brief:-

A suit in OS No.8 of 2018 was filed by the 1st respondent herein/plaintiff seeking the relief of partition and separate possession. The defendants namely the petitioner and others appeared and filed their written statement. After framing issues, trial started. During pendency of the trial process, a petition was taken out by this petitioner under Rule 75(2) of the Civil Rules of Practice and section 151 of the Civil Procedure Code to summon the various Tahsildhars namely Aruppukottai, Kariyapatti and the Village Administrative Officers of Palavanatham and Valukkalotti, Block Development Officer, Aruppukottai, Panchayat President of Palavanatham, Assistant Engineer, Tamil Nadu Electricity Board, Aruppukottai and District Collector, Virudhunagar seeking documents mentioned in the petition. That was dismissed by the trial court on 05/08/2023.



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3. Against which, this civil revision petition has been preferred.

4. Heard both sides.

5. A petition was taken out by the petitioner for the purpose of proving his possession, on the basis of the document, dated 27/12/1986. According to the petitioner, the property was already partitioned. In pursuance of the partition only, they are in separate possession. To prove the separate possession only, the document is required.

6. It was resisted by the respondents stating that the document itself is a fake one. No proper copy application was filed before the concerned authorities before invoking Rule 75(2) of the Civil Rules of Practice.

7. The trial court recorded a finding that no proper proof was filed to show that the copy applications were made, but they were not considered. So unless the condition is satisfied, the petition cannot be entertained.



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8.The point to be decided in the suit is whether the document, dated 27/12/1986 is true or not and binding upon the parties.

9.To show the separate possession only now they filed the present petition. Reading of the petition does not indicate the following points:-

- (i)Year;
- (ii)By whom the Adangal is maintained;
- (iii)Whether the certified copies of those adangals were produced by the petitioner'
- (iv)The Department address; and
- (v)The office in which the document is available.

10.All those things are completely omitted to be mentioned in the petition. So unless the proper particulars of the document sent for are mentioned, it will not give any idea. This is the first lapse on the part of the petitioner.

11.Rule 75(2) of the Civil Rules of Practise reads as follows:-

"..(2)Every application for such summons shall be made by a verified petition setting out (i)the document or documents of



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production of which is required; (ii) the relevancy of the document or documents; and (iii) in case where the production of a certified copy would answer the purposes, whether the application was made to the proper officer for a certified copy of copies and the result of such application."

12. Reading of the above Rule makes obligatory upon the application to first apply for certified copies. Original copy sent for, in that even if it is required.

13. Even though, the learned counsel appearing for the petitioner would submit that the certified copies of the adangal and other documents will not be issued by the concerned Department. But in the absence of proper particulars in the petition, this point cannot be decided.

14. So I am of the considered view that the matter can be remitted back to the trial court for fresh consideration.

15. In the result, this civil revision petition is **disposed of**. The matter is remitted back to the trial court. The petitioner is directed to file appropriate amendment petition by including the points narrated



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above. Let the above said process be completed within a period of 15 days from the date of filing the amendment petition. No costs. Consequently connected Miscellaneous Petition is closed

30/01/2024

Index:Yes/No
Internet:Yes/No
er

To,

The Additional District Judge,
Virudhunagar.



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G.ILANGOVAN, J

er

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