



CRP(PD).No.1165 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

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CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.1165 of 2023

and

CMP.Nos.8079 of 2023

G.Selvaraj

... Petitioner

Vs.

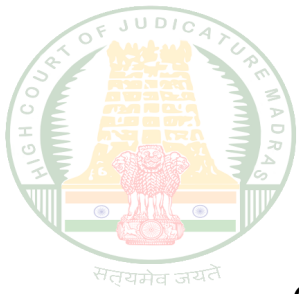
K.Jayalakshmi

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside order in IA.No.403 of 2021 in OS.No.74/2011 dated 15.12.2022 by the District Munsif, Tambaram, Kancheepuram.

For Petitioner : M/s.R.C.Manoharan

For Respondent : M/s.Venkataswamy Balu



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CRP(PD).No.1165 of 2021



ORDER

Challenging the dismissal of his application filed under the provisions of Order 12 Rule 6 of CPC, the defendant is the petitioner before this Court.

2. Brief Facts:-

3. The respondent/plaintiff had filed a suit OS.No.74 of 2011 on the file of the District Munsif, Tambaram seeking permanent injunction restraining the defendant, his men, agents, servants, legal heirs, administrators from any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

4. The suit schedule property is an extent of 12 cents in S.No.186/6, Selaiyur Village, Tambaram Taluk, Kancheepuram District.

5. It is the case of the respondent/plaintiff that originally the property in question belonged to her grandfather Ganapathy Naicker.



After his demise, his only legal heir Smt. Muniyammal, the mother of the plaintiff, had inherited the property. She had executed a settlement deed dated 17.06.2007, settling the suit property on the respondent/plaintiff. Since in the said settlement deed the boundaries were wrongly mentioned, the plaintiff's mother had executed a rectification deed on 25.03.2011, bringing the boundaries in order.

6. The respondent/plaintiff would submit that from the date of execution of the settlement deed she has been in possession and enjoyment of the property. She had also taken steps to mutate the revenue records in her name and the same is pending.

7. While so, on 26.03.2011, when the respondent/plaintiff was clearing the property to enable the Surveyor to survey the property, the petitioner/defendant landed on the suit property with his henchmen and attempted to take charge of the property. Immediately, she had lodged a complaint with the nearest police station, namely, S-15, Selaiyur, against the defendant and his men. When the defendant was called for enquiry he had submitted before the police that the property



belongs to him but he had not produced any documents to substantiate the statement. The police authorities had directed the plaintiff to approach the competent Civil Court as the dispute is purely civil in nature.

8. The respondent/plaintiff would submit that she is the absolute owner of the property by virtue of the settlement deed dated 11.06.2007 and the revenue records also stand in her name. Since the defendant is attempting to interfere with her peaceful possession and enjoyment of the suit property, she has come forward with the suit in question.

9. The petitioner/defendant had entered appearance in the suit and submitted a very detailed counter. The defendant had denied the allegations contained in the plaint. The petitioner/defendant would submit that his father, Gopal Naicker and his elder brother, Ganapathy Naicker had partitioned the properties left by their father Ponnusamy Naicker between themselves by way of a Koor Chit dated 17.07.1938. After the death of Ganapathy Naicker on 02.02.1980, his legal heir,

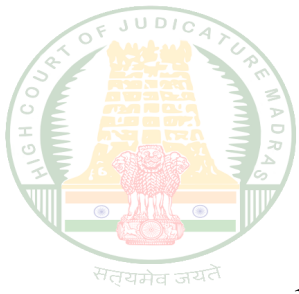


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Muniammal, the mother of the plaintiff, had inherited the property as described in the Koor Chit of the year 1938 in respect of S.Nos.170/2 (38 cents), 187/2 (15 cents), 351/4 (11 cents), 186/3 (9 cents), 157/2 (59 cents) and half share in S.No.325 (17 ½ cents). The said Muniammal had sold all the properties except the property comprised in S.No.186/3 (9 cents) to the Gopal Naicker, the father of the defendant. The father of the defendant died on 05.07.1986. Thereafter, his legal heirs are in possession and enjoyment of the property as per Koor Chit.

10. The petitioner/defendant would submit that the 12 cent in S.No.186/6 is in the possession of the defendant and other legal heirs of the deceased Gopal Naicker. The plaintiff is well aware of this fact. The defendant's case is that he is in possession of the property as per the Koor Chit.

11. When the matter had reached the stage of arguments, the petitioner/defendant had come forward with IA.No.403/2021 to pass a judgment on the basis of the admission of the respondent/plaintiff.



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12. The petitioner/defendant would submit that during her evidence, the respondent/plaintiff had admitted that Gopal Naicker under whom the petitioner/defendant would claim title was the owner of the 12 cents in S.No.186/6. Therefore, she would submit that in the light of this categorical admission, the suit has to be dismissed.

13. The respondent/plaintiff had filed a counter inter alia contending that the application is filed only to drag on the proceedings.

14. The learned District Munsif, Tambaram after considering the arguments and perusing the records, dismissed the application. Challenging, the same the petitioner/defendant is before this Court.

15. Heard the counsel on either side and perused the records.

16. The petitioner/defendant has taken a statement in isolation to file this petition. The respondent/plaintiff had clearly and categorically



contended that S.No.186/6 consists of 24 cents out of which 12 cents was allotted to the revision petitioner and 12 cents to Ganapathy Naicker. Therefore, the statement that Gopal Naicker owns 12 cents must also be considered in the light of the other statement that Ganapathy also owns an extent of 12 cents in S.No.186/6 which totally measures 24 cents. Therefore, a decree cannot be passed on the admission of the respondent/plaintiff. The order passed by the learned District Munsif, Tambaram is very much in order and I see no reason to interfere with the same.

17. Accordingly, the Civil Revision Petitions stand dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

13.03.2025

(shr)
Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

To

1.The District Munsif, Tambaram, Kancheepuram.



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