



C.R.P. (PD) .No.82 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.82 of 2025

and

C.M.P.No.740 of 2025

C.K.Palanivel

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable
Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

3.The Assistant Commissioner,
Hindu Religious & Charitable
Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,



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Chennai – 600 034.

4.The Fit Person / Executive Officer,
Arulmigu Thiruvalleeswarar Thiru Koil,
Padi,
Chennai – 600 050.

5.The Tahsildar,
Office of the Tahsildar,
Ayanavaram,
Chennai – 600 023.

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order of dismissal dated 30.10.2024 in I.A.No.4 of 2024 in O.S.No.5106 of 2018 pending on the file of the XVII Assistant Judge at City Civil Court at Chennai.

For Petitioner : Mr.C.B.Muralikrishnan

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

This civil revision petition challenges the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai, in I.A.No.4 of 2024 in O.S.No.5106 of 2018 dated 30.10.2024.



2.The civil revision petitioner is the plaintiff in the suit. He present the suit for the following releifs:

“(a)Notice of lease hold rights dated 10.08.2018 issued by the 4th defendant as illegal and null and void and liable to be set aside as not binding in the plaintiff as this Court may deem fit and proper in the circumstances of the case;

(b)Permanent injunction restraining the 4th defendant and their men, agent, servant on their behalf to take any action pursuant to the notice dated 10.08.2018.”

3.The case of the plaintiff is that his mother, Mahalakshmi purchased the property from one Esther Rubert Ammal on 02.07.1952. The plaintiff's mother had executed a “WILL” bequeathing the property in favour of the plaintiff on 23.07.1983. The plaintiff's mother passed away on 26.11.1995. The plaintiff applied to this Court for letters of administration and obtained the same on 12.05.2008. He pleads that, to his shock and surprise, the 4th defendant issued a notice to him on 10.08.2018 calling upon him to pay rentals for the suit property. He pleaded right from the time his mother had



purchased the property till the impugned notice was issued, the property was utilized by him only as an owner and never as a lessee under the Temple.

Hence, he filed the suit for the aforesaid reliefs.

4.The defendants 1 to 4 filed a written statement through the 4th defendant. According to them, the property belongs to the fourth defendant Temple, and even in the sale deed that had been executed by Esther Rubert Ammal in favour of Mahalakshmi, it was explicitly stated that it is Temple property. By way of this written statement, they also set up a counter claim for a declaration that the patta that had been issued in favour of the plaintiff is null and void.

5.The 5th defendant, Tahsildar filed a written statement pleading that on the basis of the representation that was given by the plaintiff on 19.11.2014, a patta had been issued in his favour on 20.12.2014. Subsequently, on the request from the Temple authorities, the Town Survey Land Register (TSLR) was amended and mutated in favour of the Temple. This mutation was pursuant to in order in W.P.No.22533 of 2017.



6. On these pleadings, the parties have pushed to trial, evidence has been completed and the suit is now listed for arguments by the plaintiff.

7. At this stage, the plaintiff filed an application in I.A.No.4 of 2024 under Order XVI of the Civil Procedure Code seeking to issue sub peona to the Tasildar, Ayanavaram, to produce the relevant files relating to Survey No.17, Ayanavaram Village and connected old and new adangal records and also to depose in the suit. This application was numbered as I.A.No.4 of 2024. In this application, the 4th defendant alone contested and the defendants 1 to 3 and the 5th defendant remained *exparte*.

8. The learned Judge took up the application for disposal. At that stage, the learned Additional Government Pleader made an endorsement that he had “No Objection” to the application being allowed. Since it was opposed by the 4th defendant by way of filing a counter, the learned Judge considered the affidavit and counter and dismissed the application.



9.He held that the idea behind filing this application at a belated stage, after closure of evidence, is only to fill up the lacuna and therefore, it does not deserve consideration. Hence, this revision.

10.I heard Mr.C.B.Muralikrishnan for the civil revision petitioner and considering the plea that official records have been called for, I requested him to serve the papers on the learned Government Pleader. I took up the revision for final disposal.

11.The narration of the facts shows that the claim of the plaintiff is on the basis of the sale deed executed by one Esther Rubert Ammal in favour of his mother Mahalakshmi. This is the foundational document on the basis on which the plaintiff takes the claim of the suit property. The other documents namely the “WILL” written by the Mahalakshmi and the patta that has been granted by the 5th respondent Tahsildar are traceable only to this document. It is the plea of Mr.C.B.Muralikrishnan that pending the proceedings, patta has



been changed in the name of the Temple.

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12.A perusal of the written statement filed by the Tahsildar makes it clear that he had mutated the patta in the name of the plaintiff only on the basis of the representation made by the plaintiff in November, 2014. The plaintiff benefited with a patta in December, 2014. On account of the notice being issued by the Temple in the year 2018, the suit has come forth before the Court.

13.The fact that pending the proceedings, patta has been mutated in the name of the Temple should not matter. This is because any proceedings of the Revenue Authorities, pending the litigation before the Civil Court, cannot confer any right either on the Temple or divest the person of the title. The patta issued by the Revenue Authorities only *prima facie* shows possession. This is a suit for injunction based on title. In case, the plaintiff establishes that he is entitled to the property by virtue of 1952 document, the fact that the Tahsildar, pending the litigation, has mutated the patta makes no difference.



14.The plea of the plaintiff that he is entitled to summon the defendants to depose in the suit falls foul of consistent view of Courts right from the time of the Privy Council. (See *Lal Kunwar v. Chiranji Lal*, *ILR (1910) 32 All 104* and *Mahunt Shatrugan Das Vs. Bawa Sham Das*, *AIR 1938 PC 59*). It is not open to one party to summon an adversary and on that basis record the evidence in his favour. It is for the plaintiff to prove his case and he cannot rely upon or poke holes in the evidence of the defendant. Therefore, the order of the learned Judge is upheld not for the reasons given by him in paragarpth No.8 of the order but on the aforesaid ground.

15.Insofar as the plea that the plaintiff is trying to fill up lacuna is concerned, I should point out that the parties are still at the stage of trial. A litigant is entitled to bring any record that he or she so desires before the Court and place reliance upon the same. It is for the learned Judge to decide whether the records that is relied upon by a party even produced belatedly is relevant for the purpose of the case. That exercise will be conducted when the documents or evidence are marshalled at the time of pronouncing the judgment.



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16.For the mere fact that there has been a delay, I do not want to deny the opportunity for the plaintiff to produce the records which he seeks. If I were to grant liberty to the petitioner to move an application to summon the records, it only delay the proceedings in the suit. It is already pending for more than seven years and it is not in the interest of any parties that the suit to be pending for some more time. Hence, I requested the learned Additional Government Pleader as to when he will give the records that the plaintiff seeks for. The Additional Government Pleader very fairly submitted that if an application is filed for issuance of certified copy of the documents, the same will be issued on the very same day. Mr.C.B.Muralikrishnan seeks for the adangal for the fasli year 1393 and the new patta that is said to have been issued in favour of the Temple in order to produce them before the Court.

17.As per Rule 75(3) of the Civil Rules of Practice and Circular Standing Orders issued by this Court in exercise of Section 122 of the Civil Procedure Code, where a party is entitled to receive certified copy of public records, the Court should not normally issue summons to produce the same.



As the learned Additional Government Pleader has given an assurance to this Court that the certified copies of the documents that is sought for will be given on the very same day, the necessity to convert this application into one for summoning the records becomes unnecessary.

18. Therefore, the liberty is granted to the petitioner to file an application with the 5th respondent for issuance of adangal for the fasli year 1393 and the present revenue records, namely the Town Survey Land Register (TSLR) as maintained by the Tahsildar prior to 2018 and the one which is currently in vogue. On the filing of an application for these three documents, the 5th respondent shall issue to them immediately.

19. The plaintiff shall produce these records before the Court by way of an appropriate application under Order VII Rule 14(3) of the Civil Procedure Code together with an application to reopen and recall the evidence of the plaintiff and produce the same before the Court. The learned Trial Judge is requested to receive the documents subject to their relevancy and proof. The plaintiff shall be given one opportunity alone for the purpose of receiving of



the documents. In case, the plaintiff does not file an application within one week from the date of receipt of a certified copy, his right to file the aforesaid application shall stand forfeited. In case an application is filed, the learned Judge is requested to allow the same and record the evidence on those documents and close the evidence immediately. He shall pronounce the judgment in the suit on or before **31.03.2025**. If he feels that any of the parties are attempting to drag on the proceedings, absolute discretion is given to him to adopt any measure including the one available under Order XVII Rule 2 of the Civil Procedure Code.

20. In the result, this Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

29.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

The XVII Assistant Judge,
City Civil Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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