



C.R.P(MD)No.3134 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.3134 of 2024
and
C.M.P(MD)No.18011 of 2024

Hemalatha

... Petitioner/Petitioner/
Plaintiff

Vs.

Panchavarnam

... Respondent/ Respondent/
Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 22.12.2023 made in I.A.No.2 of 2023 in O.S.No.23 of 2019 on the file of the Learned District Munsif, Paramakudi.

For Petitioner : Mr.P.Pandiyarajan

For Respondent : Mr.P.T.S.Narendravasan

ORDER

The plaintiff in O.S.No.23 of 2019 on the file of District Munsif Court, Paramakudi is the revision petitioner herein.



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2. The above said suit has been filed for the relief of declaration that the sale deed, dated 22.12.2010 in Doc.No.6633/2010 in favour of the defendant is not valid. They have further prayed for declaration that the rectification deed, dated 01.06.2012 in Doc.No.3085/2012 in favour of the defendant is not valid and further prayed for permanent injunction.

3. A perusal of the suit schedule property reveals that the suit has been filed for an extent of 3 cents in S.No.512/16. According to the plaintiff, the defendant's property is located in S.No.512/17. Erroneously, they got a sale deed for S.No.512/16 in document dated 22.12.2010. Thereafter, it was rectified under rectification deed, dated 01.06.2012. In the rectification deed, survey number was amended from 512/16 to 512/17. However, four boundaries were not altered.

4. According to the learned counsel appearing for the revision petitioner, unless the patta granted to the undivided survey number and FMB sketch and the rough patta are produced before the Court through the Tahsildar, he will not be in a position to prove his case.



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5. The plaintiff has filed I.A.No.2 of 2023 to summon Tahsildar, Paramakudi and Tahsildar, Natham Section, Paramakudi for giving evidence in respect of S.No.512/16 and 512/17 from which these are subdivided and in whose name patta has been issued and FMB sketch etc., This application has been dismissed by the trial Court on the ground that already Advocate Commissioner has been appointed and he has filed his report and plan. The trial Court has further pointed out that the plaintiff could very well get a certified copy of these documents and could file it before the Court. Challenging the same, the present revision petition has been filed.

6. According to the learned counsel appearing for the revision petitioner, the defendant without altering the boundary recitals, have merely altered the survey number in the rectification deed and therefore, there is some difficulty in identifying the suit schedule properties. Unless the revenue records are produced through the concerned Tahsildar, it will be very difficult to assess the rights and liabilities of the parties concerned.



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7. Per contra, the learned counsel appearing for the respondent contended that already Commissioner has been appointed and he had identified the suit schedule properties of the plaintiff and the defendant and plan has also been submitted. In such circumstances, summoning of the Tahsildar is unnecessary and it will only drag on the proceedings.

8. Heard both sides and perused the material records.

9. The facts captured above and the submissions made on either side will clearly reveal that there is no dispute between the parties to the effect that the plaintiff claims title over S.No.516/16 and the defendant claims title over S.No.516/17. However, there is a dispute with regard to the four boundaries of these two survey numbers. In the present case, already Advocate Commissioner has been appointed and he has also submitted his report and plan with the help of the Surveyor and the Village Administrative Officer. Those documents have already been marked as Exhibit C.1 and C.2 during the cross-examination of P.W.1. In case if the plaintiff wishes to mark the patta, FMB sketch and rough patta, he is always at liberty to do so by getting certified copies from the



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concerned Tahsildar Officer. In such circumstances, summoning of Tahsildar is not necessary. The trial Court has rightly dismissed the application.

10. With the above observation, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

14.02.2025

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

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To

1. The District Munsif Court,
Paramakudi.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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