



WEB COPY

CRP.No.4238 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4238 of 2022
and
CMP.No.22208 of 2022

C.Saravanan

... Petitioner

Versus

G.D.Sivakumar

... Respondent

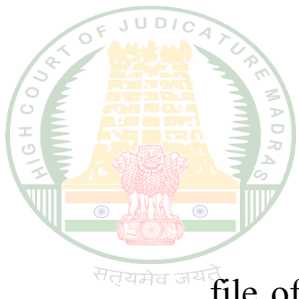
PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order 18.11.2022 made in IA No.1 of 2022 in AS.No.109 of 2021 on the file of the VI Additional Judge, City Civil Court, Chennai

For Petitioner : Mr.S.Raj Makesh

For Respondent : Mr.S.Veeraraghavan

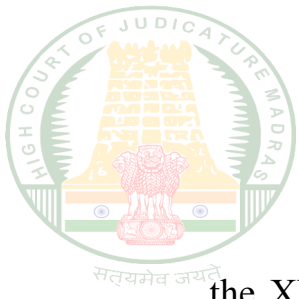
ORDER

This petition has been filed to set aside the order passed by the VI Additional Judge, City Civil Court, Chennai in IA.No.1 of 2022 in AS.No.109 of 2021 dated 18.11.2022.



WEB COPY

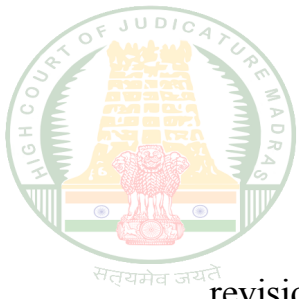
2. The petitioner herein is the Appellant in AS.No.109 of 2021 on the file of the VI Additional District Judge, City Civil Court, Chennai. He has preferred the said appeal against the decree passed in OS.No.1951 of 2014 by the XIII Assistant Judge, City Civil Court, Chennai. Originally, the suit was filed by the respondent/plaintiff for the relief of permanent injunction in respect of the suit property as prescribed in the plaint schedule claiming that he is the owner of the property and he is in enjoyment of the same and his possession should not be disturbed by the petitioner herein/defendant, But, the petitioner/defendant contended that his father is the absolute owner of the vacant land of the suit property and has also contended that the father of the defendant's father Varadharaja Udayar was inducted as a tenant and he has constructed a superstructure. After his demise, his daughters Vaduvambal and Vendan ammal have continued their tenancy under the defendant's father. Since they defaulted in payment of rent, the defendant's father filed a suit in OS.No.8967 of 1983 before the City Civil Court, Chennai for possession of land and for arrears of rent. The Suit was decreed in favour of defendant's father. Now, the respondent/plaintiff wrongly claimed himself as the owner of the property and filed vexatious suit to prove the title.



WEB COPY

3. The petitioner has also filed a suit in OS.No.1918 of 2022 before the XXIII Additional City Civil Court, Chennai for declaration of suit and recovery of possession. Pending suit, this revision petitioner has filed the appeal in AS.No.109 of 2021 and IA.No.1 of 2022 under Order 41 Rule 27 of CPC praying to receive the additional documents viz., Partition Deed dated 31.05.1932, death certificates of Natarajan, Angamuthu Naicker and father of the petitioner viz., Chandrasekaran and also the Advocate Commissioner's Report filed in the earlier suit in OS.No.8697 of 1983. The said application was strongly objected by the respondent stating that no reason was assigned by the petitioner to produce the said documents and commissioner report at earlier point of time during trial. Therefore, he raised objection.

4. On considering both submissions, the learned Trial Court Judge passed an order stating that the petitioner is having knowledge about the earlier suit proceedings, but, not produced the above said documents within a time nor assigned any reason for non-production of the same at the time of trial and also held that the petitioner ought to have applied due diligence to produce those documents, but, he failed. Hence, the said application was dismissed.



WEB COPY

5. Challenging the said findings, the petitioner has filed the above civil revision petition.

6. The learned counsel for the Revision Petitioner would argue that those documents are vital documents to prove the title over the property. Further more, the respondent/plaintiff suppressed all the real proceedings and claimed himself as owner of the property and if he is not permitted to produce the above mentioned additional documents his valuable right over the suit property would be defeated.

7. The learned counsel for the respondent raised objection by stating that before the trial Court, the Revision/petitioner not taken any steps to produce those documents. However, subject issue in the earlier suit proceedings is not related with the present suit. Therefore, the Court below has rightly dismissed the said application, which needs no interference.

8. Considering both submissions and an perusal of the documents which is sought to be required as additional documents reveals that the father of the petitioner/defendant had already filed a suit against this plaintiff in the year of 1983 with regard to same property and has not proved his claim before the Court, but according to the respondent/plaintiff he has purchased the property in the year 2008 before that the vendors traced the



CRP.No.4238 of 2022

WEB COPY

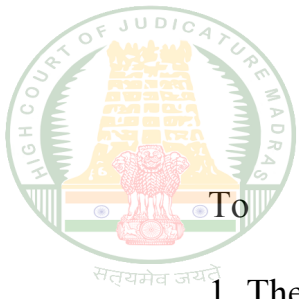
title in the year 1963, but they have not produced any document, but now to prove the title of the property, the petitioner/defendant has produced the partition deed dated 31.05.1932. The objection of the respondent/plaintiff clearly reveals that he is disputing the title of the defendant through a partition deed. The defendant also entitled to prove his title, so the document which are relied by the defendant are necessary documents to prove his defence. Therefore, this Court is inclined to allow the revision petition by setting aside the findings of the trial court judge.

9. Accordingly, the Civil Revision Petition stands allowed and the impugned order in IA.No.1 of 2022 in AS.No.109 of 2021 dated 18.11.2022 on the file of the learned I Additional District Court, Salem is hereby set aside. Further, the documents are ordered to be received as additional documents and tried along with the said appeal in the manner known to law. Consequently, the connected civil miscellaneous petition is closed.

09.03.2023

Vv

Note : Issue Order Copy on 13.03.2023

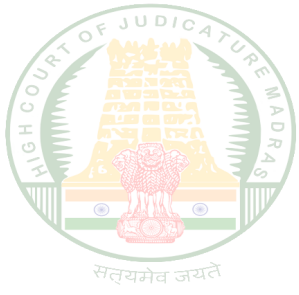


CRP.No.4238 of 2022

To

1. The VI Additional Judge,
City Civil Court, Chennai

WEB COPY



WEB COPY



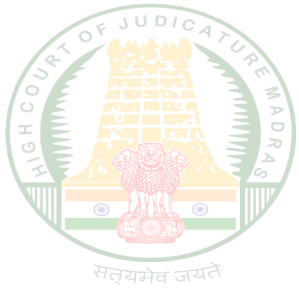
CRP.No.4238 of 2022

T.V.THAMILSELVI, J.

Vv

**C.R.P.No.4238 of 2022
and
CMP.No.22208 of 2022**

09.03.2023



WEB COPY



CRP.No.4238 of 2022