

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2912 of 2013

and

M.P.No.1 of 2013

M/s.V.M.E.Properties (P) Ltd.,
represented by its Managing Director,
V.Manickam,
No.364, Pillayar Koil Street,
Panneer Nagar,
Chennai - 600 037.

... Petitioner

vs

1.G.Veerapathiran

2.Kalidas @ Kaliappan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned District Munsif cum Judicial Magistrate, Sriperumbudur, passed in I.A.No.222 of 2010 in O.S.No.36 of 2010 on 10.12.2012.

For Petitioner : Mr.V.Ayyadurai

For Respondents : Mr.R.Bharath Kumar

ORDER

This revision arises against the order of learned District Munsif cum Judicial Magistrate, Sriperumbudur, passed in I.A.No.222 of 2010 in O.S.No.36 of 2010 on 10.12.2012.

2. Respondents/plaintiffs filed O.S.No.36 of 2010 on the file of learned District Munsif cum Judicial Magistrate, Sriperumbudur, seeking declaration that the plaintiffs are the absolute owners of the suit properties and other consequential reliefs. Petitioner/second defendant moved I.A.No.222 of 2010 seeking rejection of the plaint insofar as the petitioner/second defendant is concerned and in respect of suit properties mentioned as Item Nos.3 and 4. Court below, under the impugned order, dismissed such application. There against, the present revision has been filed.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. Petitioner/second defendant has filed the application under Or.7 R.11 CPC on three grounds viz., (i) that the suit has not been properly valued and

suffers from lack of jurisdiction in respect of first declaratory relief, (ii) that there is no cause of action and (iii) that the suit is barred by limitation in view of provisions of Patta Pass Book Act, 1986. The Court below has found as follows:

- (i) In the plaint, plaintiffs have shown the suit properties Item Nos.1 to 6 as agricultural lands and rightly valued the suit in keeping with Section 25(a) of the Tamil Nadu Court Fees and Suit Valuation Act. If the petitioner/second defendant has any grievance over the same, he should invoke provisions of Or.14 R.5 CPC. (towards framing appropriate issue on the question).
- (ii) Plaintiffs claim right over the suit property informing that they acquired the same by way of a registered Partition Deed dated 04.06.1971 and without notice to them, in the year 1983, the suit lands were divided into seven parts and settled in favour of third parties. On coming to know about such division in the year 2007, plaintiffs have preferred a complaint before Thasildhar and appeal before District Revenue Officer Kancheepuram. Upon rejection of their prayer, plaintiffs moved W.P.No.14972 of 2009 and while dismissing such writ petition, this Court has directed the plaintiffs to approach the civil Court. Hence, it is clear that there exists a cause of

action.

(iii) Plaintiffs have not claimed any relief regards issuance of patta or cancellation of patta. They only seek declaration of title and declaration of various sale deeds as null.

The proviso to Section 14 of Patta Pass Book Act, 1983, permits one to seek a declaratory relief in the face of infringement of right to property through wrongful entry of patta under the Act. This Court only would add that respondents are not parties to documents which they wish to declare null and void. They could have well ignored such sale deeds and while so, they could not be required to pay stamp duty on the value of the sale deeds. The relief prayed for there regards only is consequential (see Full Bench decision of this Court in ***C.R.Ramaswami Aiyangar v. C.S.Rangachariar and others [1940 ILR Mad 259]***).

Finding no reason to interfere with the order under challenge, the Civil Revision Petition is dismissed. However, considering the submissions of learned counsel for petitioner that the suit is of the year 2010 and the proceedings in the suit unduly are protracted, this Court directs learned District Munsif cum Judicial Magistrate, Sriperumbudur, to dispose of O.S.No.36 of 2010 as

expeditiously as possible, in any event, within a period of four months from the date of receipt of this order. No costs. Connected miscellaneous petition is closed.

17.08.2016

Note to office:

Issue order copy by 25.10.2016

Index:yes/no

Internet:yes

gm/dn

To

The District Munsif cum Judicial Magistrate,
Sriperumbudur.

C.T.SELVAM, J

gm

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