

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 11.01.2017****C o r a m****The HONOURABLE MR.JUSTICE M.DURAISWAMY****S.A (MD) No.565 of 2016****and****C.M.P(MD) Nos.8079 & 10997 of 2016**

1.Dharmar
2.Ponnusamy

.. Appellants/Appellants/Plaintiffs

Vs.

1.State of Tamil Nadu,
Through its District Collector,
Tuticorin District,
Tuticorin.

2.Subbiah Asari

.. Respondents/Respondents/Defendants

Prayer:- Second Appeal has been filed under Section 100 of Civil Procedure Code against the Judgment and Decree dated 21.01.2008 made in A.S.No.45 of 2007 on the file of the Sub Court, Kovilpatti, confirming the Judgment and Decree, dated 31.01.2007 made in O.S.No.4 of 2004 on the file of the District Munsif Court, Vilathikulam.

For Appellants : Mr.K.Hemakarthiskeyan

For R - 1 : Mr.R.Anandha Raj
Government Advocate

For R2 : No Appearance

JUDGMENT

The above second appeal arises against the Judgment and Decree passed in A.S.No.45 of 2007 on the file of the Sub Court, Kovilpatti, confirming the Judgment and Decree passed in O.S.No.4 of 2004 on the file of the District Munsif Court, Vilathikulam.

2.The appellants are the plaintiffs and the respondents are the defendants in the suit. The plaintiffs filed the suit in O.S.No.4 of 2004 on the file of the District Munsif Court, Vilathikulam, for declaration and permanent injunction.



3. Heard the learned counsel for the appellants and the learned counsel for the first respondent.

4. The learned counsel appearing for the appellants submitted that the suit property is a Natham Poramboke and that the respondents are taking steps to evict the plaintiffs from the suit property. Further, the learned counsel for the appellants submitted that the patta granted in favour of the plaintiffs was cancelled by the authorities. Though the plaintiffs contended that they are in possession of the property, they have not produced any document to establish that they are in possession of the suit property. The learned counsel appearing for the appellants further submitted that the District Collector has been made as one of the defendants only for the reason that the authority had cancelled the patta issued in favour of the plaintiffs.

5. In the absence of any acceptable evidence produced by the plaintiffs, the Courts below concurrently held that the plaintiffs are not in possession of the property. Since, admittedly, the suit property is a Grama Natham, the first defendant-the State of Tamil Nadu, rep. By the District Collector, Tuticorin has no role to play. However, the plaintiffs have filed the suit against the State seeking for declaration and permanent injunction. So far as the cancellation of patta is concerned, the order passed by the Revenue Divisional Officer can be challenged by way of appeal before the authorities. However, the outcome of the appeal is not known to this Court. Since the Courts below have concurrently held that the plaintiffs have not established their possession over the suit property by adducing oral and documentary evidences, I do not find any reason to interfere with the concurrent findings of the Courts below.

6. In these circumstances, I find no ground much less any substantial question of law to interfere with the concurrent findings of the Courts below and the Second Appeal is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

ps

To

1. The Sub Judge,

<https://hcservices.courts.gov.in/hcservices/>



2.The District Munsif,
Vilathikulam.

+1cc to Mr.K.Hemakarthiskeyan, Advocate Sr.No. 2430

+1cc to Spl.Government Pleader Sr.No. 2287

JAM/03.02.17/PN/SAR 3/3p-5c

S.A(MD) No.565 of 2016
11.01.2017