

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:19.04.2018

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**CRP(PD)No.1082 of 2018
and
C.M.P.No.5663 of 2018**

1.S.Vetriselvan
2.S.Sathish Kumar

Petitioners

Vs.

1.B.Vedanayaki
2.B.Selvaraj
3.B.Kanchana
4.B.Yuvashri
5.B.Jayashri
6.B.Srinivasan
7.B.Thulasi
8.B.Venu
9.Gaja@K.Gajalakshmi
10.K.Babu
11.K.Parthasarathy
12.D.Santhanam
13.Pushpaveni
14.Saravanan
15.D.Rani Ammal
16.D.Karthick
17.N.Deepa
18.D.Gunasekaran
19.S.Anusuya
20.The Sub Registrar,
Tambaram, Chennai – 600 059.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 10.11.2017 in I.A.No.263 of 2017 in O.S.No.6 of 2016 on the file of the District Munsif, Tambaram.

For Petitioners :M/s.P.Seshadri

For Respondents :M/s.V.Manohar

ORDER

This Civil Revision Petition has been filed by the petitioner/plaintiff against the order passed by the trial Court in I.A.No.263 of 2017 in O.S.No.6 of 2016 on the file of the District Munsif, Tambaram.

2. The brief facts are as follows;

(i) The case of the petitioner is that the plaint does not contain any of the boundaries or numbers so as to identify the property in question. Hence the plaint is liable to be rejected as not proper and not maintainable.

(ii) The suit property is immovable property, hence the plaint should contain a description of the property sufficient to identify it. In

case such property can be identified by boundaries or numbers in a record of settlement or survey, as per Section 15 of the Tamil Nadu Patta Pass Book Act, 1983, the plaintiffs in every suit has to define the same. The petition seeking amendment has been filed by relying on a document which is not a title deed. Hence, the plaint is liable to be rejected for non compliance of the legal requirement.

3. Hence, the interlocutory application was filed seeking to reject the plaint on the ground that the plaintiff has failed to produce an extract of patta pass book as per Section 15(1) of Tamil Nadu Patta Pass Book Act. Section 15(1) of Tamil Nadu Patta Pass Book Act, 1983 is not applicable to the present case in hand challenging the sale deeds dated 06.03.2014 and therefore dismissed the applications is not satisfied the impediments under Order 7 Rule 11 of CPC. Against the above said order, the applicant in I.A.No.263 of 2017 in O.S.No.6 of 2016 has filed the present revision.

4. The learned counsel for the petitioner would submit that the main challenge in the order passed by the trial Court is on two grounds. One is that the schedule mentioned property does not contain any of the boundaries or survey number so as to identify the

property and another one is plaint is barred by Section 15 of Tamil Nadu Patta Pass Book Act. The trial Court has dismissed the application.

5. The learned counsel for the petitioner has relied upon a decision of this Court reported in **2012 (2) CTC 289 [Rajambal Vs The Inspector General (Registration), Government of Tamil Nadu]**, wherein it was held as follows:-

In the Register of Patta Pass Book, the Plaint is liable to be rejected under Section 15(2), as we would do under Order 7, Rule 11, CPC, Fortunately or unfortunately, the members of the Bar are yet to catch up with this provision viz., Section 15(2) as otherwise there would have been any number of Applications for rejection of Plaint.

6. The learned counsel for the respondent would contend that the suit is only challenging the sale deeds. Therefore, Section 15 of Tamil Nadu Patta Pass Book Act is not applicable to the present case.

7. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

8. The learned counsel for the petitioner submits that the revision petitioner has challenged the suit and filed an application before the trial Court under Order 7 Rule 11 (d) of CPC, the plaint is liable to be rejected under Section 15 (2) of the Tamil Nadu Patta Pass Book Act. The case of the petitioner is that the plaint does not contain any of the boundaries or numbers so as to identify the property in question, hence the plaint is liable to be rejected as not proper and not maintainable.

9. The suit property is immovable property, hence the plaint should contain a description of the property sufficient to identify it, in case such property can be identified by boundaries or survey numbers in a record of settlement or survey. As per Section 15 of the Tamil Nadu Patta Pass Book Act 1983, the plaintiffs in every suit defined relating to land in any area. Hence, the plaint is liable to be rejected for non compliance of the legal requirement. Hence, the petition to reject the plaint.

10. It is well settled law while dealing with Order 7 Rule 11 of CPC, the Court has to look into the plaint averments as to whether it discloses the cause of action. At the time of deciding an application filed under Order 7 Rule 11 of CPC, the defence taken by the defendants need not be looked into. In this case, the main defence taken by the petitioners are that the suit is barred by Section 15 of the Tamil Nadu Patta Pass Book Act 1983, however, the trial Court has given a reason that Section 15 of the Tamil Nadu Pass Book Act 1983 is not applicable.

11. On a perusal of the plaint filed by the respondents would show that the respondents filed suit against the petitioners herein is O.S.No.6 of 2016 on the file of District Munsif, Tambaram for declaration that the settlement deed dated 31.05.1982 registered under document No.134 of 1982, sale deed dated 06.03.2014 registered under document Nos.2055 of 2014 and 2055 of 2014 are null and void and consequential relief of permanent injunction. Therefore, the compliance Section 15 of the Tamil Nadu Patta Pass Book Act not applicable in this case.

12. In view of the discussion, this court finds that no infirmity or illegality with the fair and decreetal order passed by the Court below and there is no merit in the revision. The Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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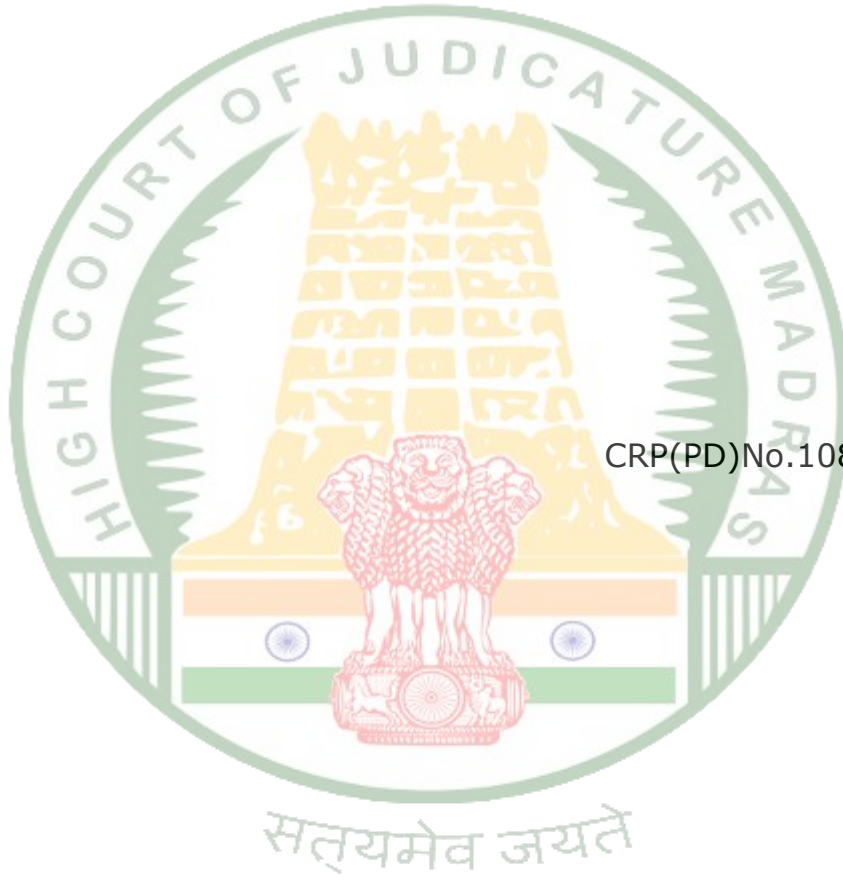
1. The District Munsif,
Tambaram.



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