

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Special Original Jurisdiction )

Monday, the Second day of July Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE M. SATHYANARAYANAN

AND

THE HON`BLE MR JUSTICE N. SESHASAYEE

REV.APLW No.90 of 2018

IN WP.25712/2013

K.KARTHICKKUMAR,

[ APPELLANT ]

Vs

1 THE PRINCIPAL SECRETARY,  
COMMISSIONER OF LAND REFORMS,  
FORT ST. GEORGE, CHENNAI.

[ RESPONDENTS ]

2 THE DISTRICT COLLECTOR  
NAMAKKAL DISTRICT, NAMAKKAL.

3 THE REVENUE DIVISION OFFICER,  
NAMAKKAL DISTRICT, NAMAKKAL.

4 THE TAHSILDAR,  
NAMAKKAL DISTRICT, NAMAKKAL.

5 P.GANESAN (DECEASED)

6 SARASWATHI,

7 ANBALAGAN

8 MRS.RAJAMANI,

9 K.BASKAR,

Against the order dated 6.9.2017 in W.P.No.25712 of 2013 by their Lordships THE HON`BLE MR.JUSTICE M.SATHYANARAYANAN, and THE HON`BLE MR.JUSTICE N.SESHASAYEE (REV.APLW.90/2018)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.SRIRAM, Advocate for the petitioner and of MR.R.UDHAYAKUMAR, Additional Government Pleader on behalf of the Respondents 1 to 4 and of MR.S.BASKARAN AND MR.R.PRABAKARAN,

THE LEARNED COUNSEL FOR RESPONDENTS 6, 7 8 AND 9 the Court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

Mr.N.Sriram, learned counsel appearing for the petitioner would submit that admittedly, deceased respondents 5, 6, 7 had filed O.S.No.122 of 2003, on the file of the Court of Additional District Munsif, Namakkal, against the President, Vittanayakapatti Panchayat and two others, praying for permanent injunction restraining the defendants therein from interfering with their possession and enjoyment of the lands in question and it was dismissed on 28.02.2005 and suppressing the same, they filed O.S.No.181 of 2005 on the file of the Principal District Munsif, Namakkal and though in the written statement filed by the defendants, it has been pointed out about the dismissal of the suit in O.S.No.122 of 2003, the suit in O.S.No.181 of 2015, came to be decreed on 06.07.2018. Unfortunately, the defendants / official respondents herein had belatedly filed application for condonation of delay for filing appeal and that was dismissed and no further challenge has been made by filing revision and it has become final. It is the further submission of the learned counsel appearing for the petitioner that even as on date, land in question is still classified as 'Kuttai Poromboke' and in the light of the judgment of Hon'ble Division Bench of this Court reported in **2010 [3] MLJ 771 (T.S.Senthilkumar Vs. Government of Tamil Nadu)**, the suit itself is not maintainable and therefore prays for review of the order.

2. This Court has considered the arguments advanced by the learned counsel appearing for the petitioner.

3. A perusal of the materials on record would *prima facie* disclose that the private respondents had suppressed the dismissal of the earlier suit in O.S.No.122 of 2003 and despite the said fact being brought to the knowledge of the concerned Court in subsequently instituted suit in O.S.No.181 of 2005, no specific finding has been recorded.

4. Thus, this Court is of the *prima facie* view that a fraud has been played upon the Court and process of law was abused also. Hence, notice through Court as well as privately returnable on 20.07.2018.

5. The learned counsel appearing for the petitioner is also permitted to serve papers on Mr.S.Baskaran and Mr.R.Prabakaran, the learned counsel for respondents 6, 7 8 and 9.

-sd/-

02/07/2018

/ TRUE COPY /

Sub Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SECRETARY,  
COMMISSIONER OF LAND REFORMS,  
FORT ST. GEORGE, CHENNAI.

2 THE DISTRICT COLLECTOR  
NAMAKKAL DISTRICT, NAMAKKAL.

3 THE REVENUE DIVISION OFFICER,  
NAMAKKAL DISTRICT, NAMAKKAL.

4 THE TAHSILDAR,  
NAMAKKAL DISTRICT, NAMAKKAL.

5 THE ADDITIONAL DISTRICT MUNSIF,  
NAMAKKAL

6 THE PRINCIPAL DISTRICT MUNSIF,  
NAMAKKAL

C.C. to M/S.G.K.R.PANDIAN Advocate Sr.No.7629

Order  
in  
REV.APLW.90/2018

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WP.NO.25712/2013

Date :02/07/2018

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