



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.03.2018

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WEB COPY

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

CRP(PD) (MD) .No.1698 of 2011
and
M.P. (MD) .No.1 of 2011

The Tahsildar,
Revenue Tahsildar Office,
Manapparai Taluk,
Manapparai,
Trichy District.

.. Petitioner/3rd party in E.P./Petitioner

Vs.

Subaitha Beevi (died)

1.Mohammed Iqbal

2.Mohammed Jaleel

3.Kaliloor Rahman

4.Abdul Jaleel

5.Rabika

6.Thitika Begum .. Respondents 1 to 6/petitioners/Plaintiffs

7.Sekar .. 7th Respondent/Respondent/Defendant

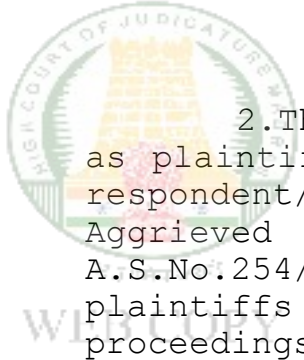
PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for records pertaining to the fair and decreetal order dated 04.03.2011 made in E.A.No.39 of 2011 in E.P.No.55 of 1993 in O.S.No.77 of 1992 on the file of District Munsif Court, Manapparai and set aside the said order and allow the civil revision petition.

For Petitioner : Mr.A.Thiyagarajan
Government Advocate

For Respondent1&2: Ms.J.Maria Roselin

O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order passed in E.A.No.39/2011 in E.P.No.55/1993 in O.S.No.77/1992 on the file of District Munsif Court, Manapparai.



2.The brief facts of the case is that the respondents 1 to 7, as plaintiffs, had filed the suit in O.S.No.77/1992 against the 8th respondent/defendant. The trial Court has decreed the same. Aggrieved over the same the defendant had filed an appeal in A.S.No.254/1994 and the same was also dismissed. Then the plaintiffs had filed E.P.No.55 of 1993. In the above said proceedings the revision petitioners were not impleaded as party. Now the revision petitioner has come forward with this petition in E.A.No.29 of 2011 stating that the petition mentioned property is a Government Kulam Poramboke. The said E.A.No.29 of 2011 was dismissed by the trial Court. Aggrieved over the same this Civil Revision petition has been filed by the petitioner.

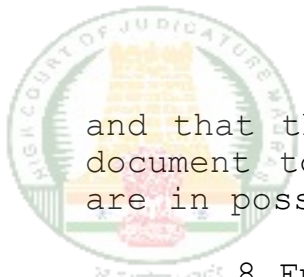
3.The learned counsel for the respondent submitted that the plaintiffs have not obtained any decree against this revision petitioner. The petitioner had no chance to prove his case through out the lower Court proceedings. Hence, he prays to allow the claim petition.

4.After analysing the evidences available on record, the trial Court has dismissed the claim petition. Aggrieved over the same, the petitioner has come forward with this civil revision petition.

5.The learned counsel for the revision petitioner submitted that the petitioner has filed this petition only to safeguard the Government poramboke land. The lower court has failed to consider G.O.No.168 Revenue (Ni.Mu.112) Department, dated 27.03.2000 and the plaintiffs are not entitled to patta.

6.Heard both sides and perused the documents available on record.

7.E.A.No.29/2011 was filed by the Tahsildar stating that the petition mentioned property belongs to the Government. Survey Number is 266 with an extent of 4.08.0 acre, which is Government Kulam Poramboke, whereas the respondent filed suit in O.S.No.77/1992 and obtained the decree. A.S.No.254/1994 proceedings were not known to the petitioner since he was not added as a party in the said suit and in the appeal. Hence the decree obtained by the decree holders is one against the Government and the property involved in the suit is Government Kulam poramboke and already an order was passed for removal of the encroachment. The petitioner was not given an opportunity since he was not added as necessary party in the suit as well as in the appeal. Further the petitioner who claims right over the property when he was about to take delivery of possession to the respondent, has not filed any document to show that he is not owner of the property and no document with related to the title has been filed by the petitioner that is the execution petitioner before the executing Court. Whereas the petitioner has stated that already an application was filed in W.P.(MD).No.5252/2001 and W.P.No.38845/2003 for a direction directing the revenue department for granting patta,



and that the revenue authority has not issued any single scribe of document to show that they authorised occupier and and that they are in possession of the property.

8. Further, the Civil Revision Petitioner in his petition has stated that the property involved in this Execution Proceedings is one Government kulam poramboke land and no one can claim ownership and that the property belonged only to the Government. Hence when it is clearly stated by the Civil Revision petitioner that in a previous Civil Revision Petition also the same survey number was the subject matter of the issue and the said property is a Government poramboke land, the execution petitioner cannot seek for delivery of the property. Hence in view of the nature of the property that belongs to the Government, the decree obtained by the respondent by not impleading the Government as necessary party and when the petitioner is not given the opportunity to contest the same, will not prejudice the right of the Government since the property is the Government poramboke which belongs to the Government.

9. In view of the observation that the property involved in this petition is Government poramboke this Civil Revision Petition is allowed and the Order passed in E.A.No.39 of 2011, dated 04.03.2011 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The District Munsif, Manapparai
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to Ms.J.Maria Roselin, Advocate, SR.No.55301.

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RAM/RSK/SAR 3/21.05.2018/3P/5C