

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(PD).No.1528 of 2015

and

M.P.No.1 of 2015

1.Palaniyammal

2.Kandasamy

3.Govindasamy

... Petitioners

vs

Deivathal

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 13.02.2013 made in I.A.No.844 of 2014 O.S.No.137 of 2014 on the file of the District Munsif Court, Kangayam.

For Petitioners : Mr.C.E.Pratap

For Respondent : Mr.P.Valliappan

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decretal order dated 13.02.2013 passed in I.A.No.844 of 2014 in O.S.No.137 of 2014 by the District Munsif Court, Kangayam.

2.The respondent is the plaintiff in O.S.No.137 of 2014 before the District Munsif Court, Kangeyam. The suit was filed for a permanent and mandatory injunction against the petitioners.

3.The petitioners filed I.A.No.844 of 2014 under Order VII Rule 11 of CPC. I.A.No.844 of 20014 which was dismissed by the impugned order with the observation that prima facie, in the plaint the respondent had disclosed the cause of action for permanent injunction and when the respondent was entitled to the relief was a mixed question of fact and law and therefore whether the suit was barred under Section 14 cannot be decided at the preliminary stage and therefore the plaint filed by the respondent/plaintiff was sustainable.

4.The learned counsel for the petitioners submits that the suit is barred under law in view of Section 14 of the Patta Pass Book Act and that the suit has been filed for mandatory injunction without seeking for declaration.

5.The learned counsel for the petitioners relied on the decision of this Court in **Amsaaveni vs The District Revenue Officer, Madurai and 3 Others**, 2014 (3) CTC 785, wherein it was held as follows:-

16.Patta is not a document conferring title, unless the same is issued by the Government by way of assignment. When there is a dispute regarding title based on documents and possession, it is only the Civil Court, which will have jurisdiction. In this case, both the Appellate Authority, the Second Respondent herein and the Revisional Authority, the First Respondent herein have gone into the question of title, which they cannot to do so. If there is a cloud over the title, they must have relegated the parties to approach the Civil Court. In the Order impugned, the First Respondent has restored the Patta in the name of the Fourth Respondent, which was issued by the Third Respondent, without hearing the Petitioner.

17.In view of the above, the Orders of the Respondents 1 to 3 are set aside. The Petitioner and the Fourth Respondent are at liberty to take appropriate steps to confirm their title before the Competent Civil Court and Patta shall be issued by the Third Respondent to the successful party before the Civil Court.

6.I find no merits in the present Civil Revision Petition. The facts of the case are that the property in question was owned by one Semalaigounder, who is the father of the respondent/plaintiff who died in the year 1982. However, on 06.03.2014, the patta was changed in the name of the petitioners. Whether the patta has been rightly cancelled or not is to be decided under Patta Pass Book Act.

7.However, it does not mean that the respondent/plaintiff will not be entitled to approach the Civil Court for injunction as the property was all along in the name of the respondent's/plaintiff's father and only on 06.03.2014 the patta was changed to the petitioners' name.

C.SARAVANAN, J.

jen/kkd

8.Since, the suit is of the years 2014, the petitioners are given liberty to file a written statement before the lower Court within a period of four weeks from the date of receipt of a copy of this order. If a written statement is filed in time by the petitioners, the learned District Munsif, Kangayam is directed to proceed with the trial and pass a Judgment and decree, within a period of six months from the date of receipt of a copy of this order.

9.The Civil Revision Petition is dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is also closed.

17.06.2019

Index :Yes/No

Internet :Yes/No

jen/kkd

To

1.District Munsif Court, Kangayam.

2.The Section Officer, V.R.Section,
High Court, Madras.

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