

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05..12..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.2986 of 2015
and M.P.No.1 of 2015

1.Vetriselvam
2.Anbu Ponnambalam ... Petitioner /Respondents 1 &
2/Defendants 1 & 2

-Versus-

1.Singaravel ...1st Respondent/Applicant/Plaintiff
2.The District Collector,
Collector's Office,
Salem.
3.The Tahsildar,
Attur, Salem District.
4.The Village Administrative Officer,
Kalyanagiri Panchayat,
Attur Taluk, Salem District. Respondents /Respondents 3-
4/Defendants 3-5

Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 10.03.2015 made in I.A.No.1356 of 2014 in O.S.No.112 of 1998 by the learned District Munsif, Attur, Salem District.

For Petitioners : Mr.M.Vaidyanathan

For Respondent(s) : No Appearance

ORDER

This civil revision petition is directed against the order of the learned District Munsif, Attur, allowing the amendment application filed by the respondents seeking to include the relief of mandatory injunction to the official respondents to

cancel the patta granted in favour of the 1st defendant and to grant patta in favour of the plaintiff.

2. The 1st respondent is the plaintiff in the suit. The petitioners are defendants land 2 in the suit. The suit was filed for permanent injunction against the defendant 1 and 2 from interfering with the peaceful possession and enjoyment of the suit property by the plaintiff. According to the plaintiff, the suit property originally belonged to his father and after his demise, he has become the absolute owner and he has been in possession and enjoyment of the same. While so, the defendants who are utter strangers to the suit property making attempts to interfere with the possession of the plaintiff claiming right over the suit property. Hence, he had no other option except to file the suit for injunction. Pending suit, the plaintiff got the plaint amended by including the relief of declaration of title over the suit property in their favour. Further according to the plaintiff, pending suit, the defendants 1 and 2 have fraudulently obtained patta in their favour in respect of the suit property. Despite notice, the officials respondents have not taken any steps to cancel the patta and therefore, he had to file an application to implead the official respondents and to seek mandatory injunction for cancellation of patta issued in the name of the defendants 1 and 2 and issuance of patta in his favour. This application was allowed by the trial court. Challenging the order allowing the amendment application, the defendants 1 and 2 are before this court with the present revision petition.

3. Even though the respondents were served with notice and their name have also been printed in the cause list, none appeared before this court.

4. I have heard the learned counsel for the petitioner and also perused the records carefully.

5. The suit was originally filed for permanent injunction which has been subsequently amended for declaration of title of the plaintiff over the suit property. Pending suit, the 1st respondent had filed an application for amendment of plaint seeking to include the relief of mandatory injunction on the ground that pending suit he came to know that the defendants 1 and 2 had fraudulently obtained patta in their favour and therefore, he wanted to amend the plaint to include the relief of mandatory injunction. Pending suit, had patta transferred in the name name of the defendants, the only remedy available to the 1st respondent is to file necessary appeal before the revenue authorities concerned to cancel the patta and to issue

patta in his favour. The petitioner cannot seek for that relief in the suit as the civil court has no jurisdiction to decide that issue. But, the court below without considering the legal position in this regard has passed a cryptic order and allowed the application which in the considered opinion of this court is liable to be interfered with.

In the result, this Civil Revision Petition is allowed and the order impugned in this revision is set aside and the application in I.A.No.1356 of 2014 in O.S.No.112 of 1998 is dismissed.

However, since the suit has been pending from 1998, the trial court is directed to proceed with the trial and dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The District Munsif, Attur,
Salem District.
- 2.The District Collector,
Collector's Office,
Salem.
- 3.The Tahsildar,
Attur, Salem District.
- 4.The Village Administrative Officer,
Kalyanagiri Panchayat,
Attur Taluk, Salem District.

+2cc to Mr.M.Vaidhiyanathan, Advocate Sr.102355

Civil Revision Petition
No.2986 of 2015

nr[co]
srg 13/03/2020