



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.1983 of 2012 (PD)

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1.Muthiah
2.Paramasamy
3.Raju
4.Vanitha
5.Velu
6.T.Jakkan
7.S.Mani
8.M.Murugan
9.Perumal
10.Sakthivel

...Petitioners/3rd Party

Vs.

1.S.Venkatesan

2.N.Sivasubramanian

... Respondents/Plaintiffs

3.Tamil Nadu Boodhan Board,
through its Secretary,
Ezhilagam, Chepauk, Chennai.

4.Tamil Nadu Boodhan Board
through its Special Officer,
Collectorate Office,
Madurai District.

5.State of Tamil Nadu,
represenated by its District Collector,
Theni District.

6.Tahsildar,
Periyakulam,
Theni District.

...Respondents/Defendants

PRAYER: This Petition filed under Article 227 of the Constitution of India to call for the records relating with the plaint in O.S.No.157 of 2010, on the file of the District Munsif Court, Periyakulam, Theni District and to strike off the same.

For Petitioners

: Mr.R.Suriyanarayanan

For R-1 & R-2

: Mr.M.Thirunavukkarasu

For R-3 to R-6

: No Appearance



O R D E R

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.157 of 2010, pending on the file of the District Munsif Court, Periyakulam.

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2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing on behalf of the first and second respondents.

3. The present Civil Revision Petition has been filed by the third parties to strike off the plaint on the ground that the property in question belongs to the Government and declaration of title cannot be claimed as against the Government. On a similar ground, one other party had approached this Court and filed C.R.P. (MD).No.950 of 2011, before this Court. The order passed by this Court in the said Civil Revision Petition is extracted hereunder:

"2.It is stated in the petition that the respondents 5 and 6 as plaintiffs have instituted Original Suit No.157 of 2010, on the file of the District Munsif Court, Periyakulam, for the reliefs of declaration and permanent injunction, wherein, the respondents 1 to 4 have been shown as defendants. In Original Suit No.157 of 2010 the plaintiffs therein as petitioners have filed I.A.No.401 of 2010 under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908, praying to pass an order of temporary injunction. The Court below after considering all the contentions raised on either side has allowed I.A.No.401 of 2010 and thereby passed an order of temporary injunction against the respondents / defendants therein.

3.The learned counsel appearing for the revision petitioner has contended that the suit properties are originally belonged to Boomidhan Board and the same have been granted in favour of the plaintiffs subject to the conditions mentioned in the grants and since the plaintiffs have failed to comply with the conditions mentioned in the grant, the grants issued in their names have been cancelled on 27.10.1998 and since the grants issued in their names have been cancelled on 27.10.1998, they have no locus standi to institute Original Suit No.157 of 2010 and further after cancelling the grants issued in the name of the plaintiffs, a separate grant has been issued in the name of the revision petitioner and the revision petitioner has not been impleaded in Original Suit.157 of 2010. The respondents 5 and 6 / plaintiffs have



completely violated principles of natural justice. Under the said circumstances the plaint filed in Original Suit No.157 of 2010 and also the petition filed in I.A.No.401 of 2010 are liable to be struck off.

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4.The learned counsel appearing for the respondents 5 and 6 / plaintiffs has also equally contended that Original Suit No.157 of 2010 has been instituted for the reliefs of declaration and perpetual injunction on the basis of the grants issued in favour of the plaintiffs, wherein the present respondents 1 to 4 have been shown as defendants. Only after filing of the written statement, the plaintiffs have come to know that the grants issued in their names have been cancelled on 27.10.1998 and no notices have been issued to the plaintiffs and further the respondents 5 and 6 / plaintiffs are entitled to challenge the alleged cancellation of their grants in Original Suit No.157 of 2010 by way of amending the plaint. Under the said circumstances, the relief sought for in the present Civil Revision Petition cannot be granted.

5.The main attack made on the side of the revision petitioner is that the grants issued in the name of the plaintiffs have been cancelled on 27.10.1998 and subsequently a fresh grant has been made in the name of the revision petitioner. The respondents 5 and 6 / plaintiffs have instituted Original Suit No.157 of 2010 mainly on the basis of the grants issued in their names. Only after filing written statement, they might have known about the cancellation of grants. Since Original Suit No.157 of 2010 has been instituted for a declaratory relief and since a definite stand has been taken on the side of the respondents 5 and 6 / plaintiffs that no notice has been issued to them, they can very well challenge the alleged cancellation by way of amending the plaint filed in Original Suit No.157 of 2010 suitably.

6.The consistent stand taken on the side of the revision petitioner is that a new grant has been issued in his name. If at all a new grant has been issued in his name, the revision petitioner can very well implead himself as one of the defendants in Original Suit No.157 of 2010 and further Original Suit No.157 of 2010 has been instituted on the basis of the grants issued in the names of the respondents 5 and 6 / plaintiffs. Since Original Suit No.157 of 2010 has



been filed on the basis of the grants issued in the name of the respondents 5 and 6 / plaintiffs, this Court is of the view that the respondents 5 and 6 / plaintiffs have not violated any principle of natural justice and at the most the revision petitioner can work out his remedy by way of implead himself in Original suit No.157 of 2010. With the above observations, the Civil Revision Petition is liable to be dismissed.

7. In fine, this Civil Revision Petition is dismissed without cost and the revision petitioner is directed to implead himself as one of the defendants in Original Suit No.157 of 2010 within a period of one month and also file written statement. The Court below is directed to dispose of Original Suit No.157 of 2010 before the end of February 2012. connected miscellaneous petitions are closed."

4. The petitioners are also placed in the same footing as that of the petitioner in C.R.P.(MD).No.950 of 2011.

5. This Civil Revision Petition stands disposed of by granting leave to the petitioners to implead themselves as defendants in the suit in O.S.No.157 of 2010, pending on the file of the District Munsif Court, Periyakulam and work out their remedy in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

The District Munsif, Periyakulam, Theni District.

+1 CC to M/s.R. SURIYANARAYANAN, Advocate (SR-99758[F] dated 20/11/2019)

CRP. (MD) .No.1983 of 2012 (PD)

20.11.2019

JMN(12.12.2019) 4P : 3C

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