



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

Rev. Aplc (MD).No.135 of 2019 and
C.M.P. (MD).No.6952 of 2019

Natarajan

.. Petitioner/Appellant

Vs.

1.The District Collector,
District Collectorate Campus,
Thiruppathur Salai, Sivagangai Town,
Sivagangai District.

2.The Tahsildar,
Office of the Tahsildar,
Thiruppathur Town, Sivagangai District.

3.Arunachalam @ Bose,
(Died on 19.09.2017 subsequent to
the Judgment passed in Second Appeal)

4.Manickavasagam,

.. Respondents/Respondents

5.Maruthambal

6.Ramanathan

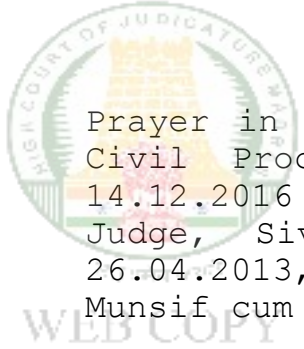
7.Murugesan

8.Jeyarani

9.The Sub Registrar,
Sub Registrar Office, Madagupatti,
Sivagangai Taluk, Sivagangai District. .. Respondents

(Cause title accepted as per order dated 31.10.2018 in C.M.P. (MD). No.8343 of 2018 in Rev.Aplc. (MD).No.Sr35286 of 2018 and RR7 to 9 impleaded as per order dated 12.07.2019 in C.M.P. (MD).No.5004 of 2019 in Rev.Aplc. (MD).No.Sr35286 of 2018)

Prayer in Review Application: Review application filed under Order XLVII Rule 1 and 2 r/w Section 114 of C.P.C. to review the judgment and decree passed by this Court in S.A. (MD).No.161 of 2017, dated



Prayer in Second Appeal: Second Appeal filed under Section 100 of Civil Procedure Code, against the Judgment and Decree, dated 14.12.2016 passed in A.S.No.48 of 2014 by the learned Subordinate Judge, Sivagangai, confirming the Judgment and decree, dated 26.04.2013, passed in O.S.No.62 of 2010 on the file of the District Munsif cum Judicial Magistrate Court, Thiruppathur.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.J.Gunaseelan Muthiah for R1 and R2
Additional Government Pleader

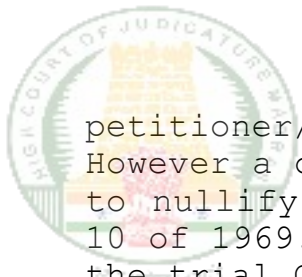
Mr.G.Prabhu Rajadurai for R4

R3 - Died

R5 & R6 - No Appearance

O R D E R

The review petitioner as plaintiff filed the original suit in O.S.No.62 of 2010 on the file of the District Munsif cum Judicial Magistrate, Tirupathur, seeking a declaration that he is a cultivating tenant in respect of the suit properties and consequently prayed for cancellation of patta that was granted in favour of the third defendant in the suit. The suit was contested by the defendants 3 and 4 who purchased the property. The third defendant seems to have purchased the property from the original owners and the fourth defendant has purchased the suit property from the third defendant. The possession of the review petitioner is seriously disputed. It is the case of the review petitioner that the property was under the cultivation of plaintiff's father-in-law by name Suba Periyasamy and his relatives and that the plaintiff/review petitioner got assignment of the tenancy rights from them. The plaintiff/review petitioner also relied upon the order passed by Record Officer recording the names of five persons as cultivating tenants, from whom the plaintiff/review petitioner got assignment. It is not in dispute that the order passed by the Record Officer was set aside by the Revenue Divisional Officer and the same was later confirmed by the District Revenue Officer. Considering the oral and documentary evidence and the pleadings, the trial Court dismissed the suit holding that the plaintiff/review petitioner had not proved his possession or right as a cultivating tenant. It is also admitted by the plaintiff/review petitioner during evidence that he was not in the village where the lands are located and therefore the trial Court also has observed that there is no scope for recognizing the review petitioner/plaintiff as a cultivating tenant who is in possession of the land, doing agriculture by exerting his physical labour. The order passed by the District Revenue Officer confirming the order of Revenue Divisional Officer under the Tamilnadu Agricultural Record of Tenancy Rights Act is not questioned by the review



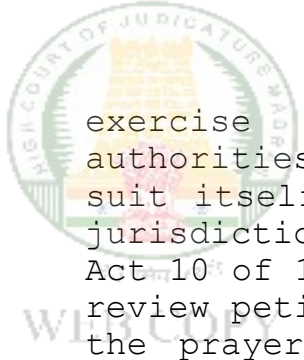
petitioner/plaintiff independently by preferring a writ petition. However a declaratory relief was sought for by the review petitioner to nullify the order passed by the competent authorities under Act 10 of 1969. The lower appellate court also confirmed the findings of the trial Court and dismissed the appeal.

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2. During the pendency of first appeal the review petitioner filed I.A.No.121 of 2016 for reception of additional documents and the said petition was also dismissed by the lower appellate court. Aggrieved by the concurrent findings of the courts below the review petitioner preferred second appeal in S.A.No.161 of 2017. The second appeal was also dismissed by judgment, dated 27.11.2017. Aggrieved by the same, the review petitioner has preferred the above review petition.

3. This Court while dismissing the second appeal has elaborately considered all the points that were raised by the review petitioner. Even with regard to the additional documents, this Court after finding that the claim of review petitioner that he is a cultivating tenant has been rejected by the statutory authorities and that there is no document to show that the review petitioner or their predecessor in interest had at any point of time were recognized as cultivating tenants in respect of the suit property held that the plaintiff has failed to prove the case. In view of the concurrent findings of the facts, this Court observed that the substantial question of law raised by the appellant/plaintiff have no substance. In the memorandum of grounds, it is stated by the petitioner that this Court has observed that the plaintiff has not produced any document to prove his case. The grievance of the petitioner is that the original deed transferring tenancy right has not been considered by this Court. It is further stated that though adangal extracts have been produced the same were not considered. Except a plea that some of the documents filed were not considered and that the additional documents have not been looked into, no ground is raised by the review petitioner attracting Order 47 Rule 1 of CPC.

4. It is well settled that a review is not an appeal in disguise. Unless there is an error apparent on the face of the record, this Court cannot entertain a review petition. The courts have consistently held that the power of review cannot be exercised even if a mistake or error has to be ascertained by a process of reasoning. It is in the said circumstances, this Court is of the view that there is no scope for entertaining the review application. The suit is filed by the review petitioner for declaration of his status as a cultivating tenant in respect of the suit properties. The further relief is also to cancel the patta in favour of the third defendant in the suit who has purchased the property. Under Section 16 A of Tamilnadu Agricultural Lands Record of Tenancy Rights Act the jurisdiction of civil court is barred to decide whether a person is a cultivating tenant or not. Similarly there is a specific bar also under the Tamilnadu Patta Pass Book Act to



exercise jurisdiction which are conferred to the statutory authorities under Patta Pass Book Act to cancel patta. Hence the suit itself is not maintainable as it is specifically barred. The jurisdiction of civil court is specifically excluded under 16(A) of Act 10 of 1969 and Section 14 of Tamilnadu Patta Pass Book Act. The review petitioner does not dispute the title of respondents. Hence, the prayer for cancelling patta is mischievous. The conduct of review petitioner is proved by his vexatious litigation and the suit is motivated by extraneous reasons.

5.Learned counsel for the respondent submitted that the petitioner knowing fully well that he has no right as a cultivating tenant nor could claim any right, instituted the suit and now the review petition only to extract money from them. Considering the conduct of the petitioner, by filing a suit with a prayer which cannot be granted by the civil court and the subsequent conduct to drag the owners upto this review, this court is of the view that the petitioner has caused much hardship to the respondents with intention to harass them. Despite the fact that the petitioner's claim as a cultivating tenant was negatived by the statutory authorities, a declaratory relief has been sought for by the review petitioner, when the suit is specifically barred. The respondents are put to unnecessary harassment by filing this review just to prolong the litigation and to make the suit property litigious.

6.In such circumstances, this Court dismiss the review petition with a cost of Rs.50,000/- payable to the respondent within a period of three weeks from the date of receipt of a copy of this order. In case the petitioner fails to pay the amount, it is open to the respondent No.4 to file execution petition to recover this money with further cost if any.

7.In the review petition, the petitioner has also produced few documents which were not filed at the time of conducting trial of the suit. It is seen that these documents were not filed before the revenue authorities under the appropriate time and the statutory authorities have considered the documents while rejecting the contention of the review petitioner that he is a cultivating tenant. There is no explanation for non production of these documents at the time of trial. Hence, the petition to receive additional evidence is also dismissed.

8.Registry is directed to return the documents by replacing it with xerox copies of the same.

Sd/-

Assistant Registrar (CO)

// True Copy //



To

1.The Subordinate Judge, Sivagangai

2.The District Munsif-cum-Judicial Magistrate,
Thiruppathur.

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Copy to:

The Section Officer, (2 Copies)

ER Section,

Madurai Bench of Madras High Court,

Madurai.

+4cc to Mr.A.Saravanan, Advocate, SR.No.76219

+1cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.76582

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