



C.R.P.(PD)Nos.411,412, 416,422 and 438 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order <u>25.10.2021</u>	Date of Pronouncing Order 29.11.2021
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CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD)Nos. 411,412, 416,422 and 438 of 2020

and

C.M.P. Nos.2142,2143,2152,2208 and 2287 of 2020

(Through Video Conference)

1. Perumal
2. Bagheerath
3. Rooban

...Petitioners in C.R.P.No.411 of 2020

1. S.P.Devarajan
2. S.P.Devanathan
3. K.Palanivel

...Petitioners in C.R.P.No.412 of 2020

1. Perumal
2. Sundaravalli

...Petitioners in C.R.P.No.416 of 2020

1. Perumal
2. Vedavalli

...Petitioners in C.R.P.No.422 of 2020

1. Perumal
2. N.Jayachandran

...Petitioners in C.R.P.No.438 of 2020

Versus



C.R.P.(PD)Nos.411,412, 416,422 and 438 of 2020

1. Valli
2. Padma
3. Suseela
4. Dhankoti
5. Manohar
6. Muthulakshmi
7. Pushpa
8. Raja
9. Selvi

10. The Chief Secretary
Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009.

11. The Collector
Cuddalore District
Cuddalore-607 001

12. The Tahsildhar
Panruti Taluk
Panruti

13. The Home Secretary,
Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009

14. The Superintendent of Police
Cuddalore District
Cuddalore-607 001



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15. Director of Vigilance & Anti-corruption

Alandur

Chennai-600 016.

16. The Deputy Superintendent of Police

Vigilance and Anit-Corruption

Cuddalore Division

Cuddalore-1.

17. The Secretary

Registration Department

Tamil Nadu Secretariat

Chennai-600 009.

18. The Inspector General of Registration,

Santhome High Road,

Mylapore, Chennai-04

19. The Deputy Inspector General of Registration

Cuddalore Division,

Thirupapuliyur

Cuddalore.607 002

20. The District Registrar

Cuddalore Division,

Thirupapuliyur

Cuddalore.607 002.

21. Smt.Subuthalakshmi

Deputy Inspector General of Registration of Salem District

Salem.

22. The Sub Registrar

Pantruti Taluk

Pantruti.



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23. R.K.Kumar

24. Meeana

...Respondents in C.R.P.No.411 of 2020

1. Valli
2. Padma
3. Suseela
4. Dhankoti
5. Manohar
6. Muthulakshmi
7. Pushpa
8. Raja
9. Selvi
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Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009
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Cuddalore-607 001
12. The Tahsildhar
Panruti Taluk
Panruti
13. The Home Secretary,
Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009



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14. The Superintendent of Police
Cuddalore District
Cuddalore-607 001

15. The Deputy Superintendent of Police
Panruti

16. The Secretary,
Registration Department
Tamil Nadu Secretariat
Chennai-600 009

17. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai-04

18. The Deputy Inspector General of Registration
Cuddalore Division,
Thirupapuliyur
Cuddalore.607 001

19. The District Registrar
Cuddalore Division,
Thirupapuliyur
Cuddalore.607 001.

20. Smt.Subuthalakshmi
Deputy Inspector General of Registration of Salem District
Salem.

21. The Sub Registrar
Panruti Taluk
Panruti.

22. Meeana ...Respondents in C.R.P.Nos.412, 416 & 422 of 2020



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4. Dhankoti
5. Manohar
6. Muthulakshmi
7. Pushpa
8. Raja
9. Selvi
10. The Chief Secretary
Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009
11. The Collector
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Cuddalore-607 001
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Government of Tamil Nadu
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Cuddalore District
Cuddalore-607 001
15. Director of Vigilance & Anti-Corruption
Alandur



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Chennai-600 106

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16. The Deputy Superintendent of Police
Vigilance and Anit-Corruption
Cuddalore Division
Cuddalore-1
17. The Secretary,
Registration Department
Tamil Nadu Secretariat
Chennai-600 009
18. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai-04
19. The Deputy Inspector General of Registration
Cuddalore Division,
Thirupapuliyur
Cuddalore.607 002
20. The District Registrar
Cuddalore Division,
Thirupapuliyur
Cuddalore.607 002.
21. Smt.Subuthalakshmi
Deputy Inspector General of Registration of Salem District
Salem.
22. The Sub Registrar
Pantruti Taluk
Pantruti.
23. R.K.Kumar
24. Meeana



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25. The Co-optex Department
Rep by its District Manager
Chidambaram Road
Cuddalore-2

26. The Branch Manager
Co-optex Shop
No.28, Link Road, Vadakailasam Division'
Panruti

...Respondents in C.R.P.No.438 of 2020

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to strike off the plaint in P.O.P.Nos143,39,40,41 and 126 of 2018 on the file of the Principal District Judge/Special Tribunal Constituted under the Schedule Caste and Schedule Tribes (Prevention of Attrocities) Act, 1989.

In C.R.P.No.411 of 2020:

For Petitioners : Mr. OM Prakash, Senior Advocate for
Mr.Venkata Krishnan

For Respondents : Mr.R.Muralidharan for R1 to R9
Dr.S.Surya, GA (CS) for R10 to R22 &
R23 -(Died)
Mr.U.Gokulakrishanan for R24 - NA.

In C.R.P.No. 438 of 2020:

For Petitioners : Mr. OM Prakash, Senior Advocate for
Mr.Venkata Krishnan

For Respondents : Mr.R.Muralidharan for R1 to R9



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Dr.S.Surya, GA (CS) for R10 to R22 &
R23 (Died)

Mr.U.Gokulakrishnan for R24 - NA.

In C.R.P.Nos.412, 416 & 422 of 2020:

For Petitioners : Mr. OM Prakash, Senior Advocate for
Mr.Venkata Krishnan

For Respondents : Mr.R.Muralidharan for R1 to R9
Dr.S.Suriya, GA(CS) for R10 to R21
Mr.Gokulakrishnan for R22-NA

COMMON ORDER

Since the points involved in all these Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. Civil Revision Petitions Nos.411, 412, 416 , 422 and 438 of 2020 have been filed to strike off the plaint in P.O.P.Nos.143, 39, 40, 41 and 126 of 2018 respectively pending on the file of Principal District Judge / Special Tribunal constituted under the Schedule Caste and Schedule Tribes (Prevention of Attrocities) Act, 1989.



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3. The learned counsel for the petitioners submitted that all these petitions were filed seeking the permission of the Court to sue in a capacity as in forma pauperis seeking the relief against the defendants to pay certain sum as damages for use and occupation; to pay certain sum as compensation towards mental agony, deprivation of rights to possess the property and for other reliefs. It is the submission of the learned counsel for the petitioners that the respondents 1 to 9 have absolutely no right, whatsoever to claim the reliefs sought for in the petitions. There was previous litigation filed by Mr.Sri Nagamuthu Yogi, husband of 1st respondent and father of respondents 2 to 8, in O.S.No.27 of 1983, in respect of family properties. The suit was filed for partition before the Sub Court Cuddalore. The suit was dismissed and Nagamuthu Jogi filed appeal in A.S.No.31 of 1986 in the District Court. Appeal was also dismissed and he preferred Second Appeal No.201 of 1989 before this Court and that was disposed on 29.04.2021. There was no further proceedings against the judgment in S.A.201 of 1989 and it has become final. Now the legal heirs of Mr. Sri Nagamuthu Yogi have instituted proceedings without any semblance of right. It is nothing but re-litigation and re-litigation cannot be entertained. The Principal District Judge / Special Tribunal constituted under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 has no jurisdiction to



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entertain the suit. These petitions are clear abuse of process of law and therefore the prayer to strike off the plaint.

4. In response, the learned counsel for the respondents submitted that respondents 1 to 9 have clearly narrated the circumstances leading to filing of the petition for the relief sought for in the petition. There is cause of action for initiating a fresh proceedings. There is no finality reached with regard to item No.6 of the suit property, Sri Annamali Padayachi cannot claim any right in item No.6 of the suit property. The suit is not even taken on file and only an enquiry is being conducted in the Pauper Original Petitions. The petitions for striking the Pauper Original Petitions are misconceived and therefore liable to be dismissed.

5. Considered the rival submissions and perused the records.

6. It is seen from these petitions filed under Order 33 Rule 1 C.P.C., that parties to these proceedings and the reliefs claimed in these petitions are same. Only the quantum of damages for use and occupation and the compensation and pleadings with regard to quantum alone varies. There is also change in description of the property. Except this minor variations, by and large, the



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pleadings in these Pauper Original Petitions are same. It is necessary to know the case of the respondents 1 to 9 to decide these Civil Revision Petitions.

7. It is seen from the averments made in the petitions, that the respondents 1 to 9 belong to Athidraavidar community entitled for protection under the Scheduled Caste and Scheduled Tribes (prevention of atrocities) Act 1989. The respondents 1 to 9 have 0.017 cents of ancestral property in old survey No.86/2, new survey No.122/1 in Vadakailasam Divison in Panruti town. This property was purchased by the grandfather of the respondents 1 to 9 on 25.01.1951. Sri Chinnaswamy Jogi obtained Government loan and mortgaged this property to one Gopal Pillai on 09.06.1952. Gopal Pillai filed a suit on mortgage in O.S.No.403 of 1953 and this suit was decreed on 30.06.1955. Gopal Pillai assigned this decree to Sri Rajamanika Chettiar. Rajamanickam Chettiyar filed Execution Petition in E.P.No.65 of 1957 for attaching five items of immovable properties belong to Sri Chinnaswamy Jogi, except the suit property in old S.No.86/2, new S.No.122/1. Sri Chinnaswamy Jogi executed a sale deed on 07.10.1959 in favour of Sri Annamali Padayachi . As per the terms of sale deed, Sri Annamali Padayachi has to discharge mortgage loan in favour of Gopal Pillai and Government loan of Rs.796.25/-. Sri Annamali Padayachi did not discharge the Government loan and therefore the sale deed in favour of Sri Annamali



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Padayachi became invalid and it was recorded in E.P.No.463 of 1979 in

O.S.No.511 of 1961. Even after the sale deed, predecessors of the respondents 1 to 9 and the respondents 1 to 9 are in possession till 28.01.2010 when they were forcibly evicted by the grand son of 14th defendant. Nagamuthu Jogi, husband of 1st respondent and father of respondents 2 to 9 filed a suit for partition in O.S.No.27 of 1983 in respect of 6 items of the family properties. The suit property is the 6th item of the suit properties. The suit was dismissed and then first and second appeal were also dismissed. During the pendency of the legal proceedings one Syed Ibrahim, an employee of Revenue Department illegally transferred the patta from the name of Nagamuthu Jogi to Sri Annamalai Padayachi. He made arrangements to sell the property and 4th respondent presented objection. 13th respondent inspected her property and found four huts of respondent 1 to 9 with electricity service connection. Sale deed in favour of 14th respondent R.K.Kumar was registered on 23.09.2009. In the description of the property, the property was shown as vacant site with false recitals. 13th respondent knowingly and intentionally, ignoring the provisions of Registration Act and in order to help the 14th respondent registered the sale deed. Based on this sale deed, 14th respondent filed O.S.No.5 of 2010 on the file of District Munsif, Panruti for declaration of his title and for permanent injunction. Interim



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injunction was granted. Taking advantage of the interim injunction, 14th respondent filed W.P.No.4256 of 2010 for police protection and that was ordered. On the basis of Police protection, respondents 14 to 17 entered into possession and deprived the lawfull possession of respondents 1 to 9. 17th respondent purchased property on 17.04.2013 for a sum of Rs.9,795,000/- during pendency of litigation. The suit filed by the 14th respondent was dismissed. Therefore, the 17th respondent cannot claim any right in the suit property. 17th respondent rented suit property to 18th respondent and he is running Timber Merchant shop. A portion of the property in the same place was rented for Rs.35,000/-. Therefore plaintiffs are entitled to a sum of Rs.39,95,136/- as damages. These are averments made in P.O.P.NO.143 of 2018.

8. POP.No.126 of 2018: 17th defendant purchased a portion of a property on 23.04.2-13, for a sum of Rs.8,72,000/- during period of lis pendence. On the date of sale, defendants 14 or 15 have no salable interest. 14th defendant filed a suit for declaration of title and this suit was dismissed on 02.07.2016. 17th defendant is liable to pay damages for use and occupation. Suit property was rented to the 18 defendant for a sum of Rs.35,000/ per month. 19 defendant is superior officer of the 18th defendant. Therefore, defendant are liable to pay a



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sum of Rs.33,66,000/- as damages.

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9. POP.No.39 of 2018: 16 th defendant purchased a portion of the property on 06.01.2014 for a sum of Rs.9,78,000/-. On the date of sale, neither the deceased Sri Kumar nor defendant 13 or 16 have any salable interest. Sri Kumar filed a suit for declaration of title and that was dismissed on 02.07.2016. Suit property was rented to khadhi Department for a sum of Rs.35,000/- per month. Therefore, plaintiffs are entitled for a sum of Rs.17,84,825/- as damages.

10. POP.No.40 of 2018: 15 defendant purchased a portion of a property on 23.04.2013 for a sum of Rs. 8,72,000/-. On the date of sale, neither the deceased Sri Kumar nor respondents 13 or 15 have any salable interest in the property. Sri Kumar filed a suit for declaration of title and that was dismissed on 02.07.2016. 15th defendant is liable to pay damages for use and occupation. The suit property was rented to Khadhi department for a sum of Rs.35,000/- per month. Therefore, plaintiffs are entitled for a sum of Rs.21,68,416/- as damages.

11. POP.No.41 of 2018:15th defendant purchased a portion of the property on 23.04.2013 for a sum of Rs.8,72,000/-. On the date of sale defendant 13 or 14 have no salable interest. Deceased R.K.Kumar filed a suit for



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declaration of title and that was dismissed on 02.07.2016. 15th defendant is liable to pay damages for use and occupation. The suit property was rented to Khadhi store for a sum of Rs.35,000/- per month. Therefore, plaintiffs are entitled to pay a sum of Rs. 28,72,800 as damages.

12. Thus the respondents 1 to 9 claim that petitioners and other respondents are individually or jointly or separately liable to pay the damages and compensation.

13. Admittedly enquiry is pending in all these Pauper Original Petitions. Diary extract shows that despite giving sufficient opportunities, the respondents in the Pauper Original Petitions have not filed counter. Therefore it has not yet been decided as to whether the respondents 1 to 9 can be permitted to sue in the capacity as in forma pauperis.

14. Order XXXIII deals with suits instituted by indigent persons. On presenting the application, the applicant is to be examined regarding the merits of the plaint and property of the applicant. In case the Court is not satisfied with the merits of the applicants claim, the Court can reject the applications. *Order*



XXXIII Rule 5 deals with rejection of application. It reads as :

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"The Court shall reject an application for permission to sue as an indigent person-

(a) where it is not framed and presented in the manner prescribed by rules 2 and 3, or

(b) where the applicant is not an indigent person, or

(c) where he has, within two months next before the presentation of the application disposed of any property fraudulently or in order to be able to apply for permission to sue as an indigent person:

Provided that no application shall be rejected if, even after the value of the property disposed of by the applicant is taken into account, the applicant would be entitled to sue as indigent person, or

(d) where his allegations do not show a cause of action, or

(e) where he has entered into any agreement with reference to the subject -matter of the proposed suit under which any other person has obtained an interest in such subject-matter, or

(f) where the allegation made by the applicant in the application show that the suit would be barred by any law for the time being in force, or

(g) where any other person has entered into an agreement with him to finance the litigation."

15. Thus, it clear that the permission to sue, as indigent person is not



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automatic. Applicant has to satisfy the Court for instituting a proceeding as an indigent person. The application can be rejected, if it is not presented in the manner prescribed by Rules 2 and 3, if the applicant is not indigent person, where allegation do not show a cause of action, where the suit would be barred by any law by the time being in force. Without filing counter in the Pauper Original Petitions and prosecuting same, petitioners have approached this Court under article 227 Constitution of India. It is a pre mature attempt and an abuse of process of law. Therefore, this Court is not inclined to entertain these Civil Revision Petitions and dismissed the Civil Revision Petitions. No costs. Consequently, connected miscellaneous petitions are closed.

29.11.2021

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Index: Yes/ No

Speaking Order / Non-Speaking Order

To:

1. The Chief Secretary
Government of Tamil Nadu
Tamil Nadu Secretariat
Chennai-600 009.



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2. The Collector
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11. The District Registrar
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Common order made in

C.R.P.(PD)Nos. 411,412, 416,422 and 438 of 2020

Dated: 29.11.2021