

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

C O R A M

**THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN**

C.R.P.(PD) No.638 of 2021

1. M.Subramaniam
2. P.Velusamy
3. S.Muthusamy

... Petitioners

Vs.

1. Kalaiyarasi
2. The District Collector  
Collectorate, Tiruchengode Road  
Namakkal
3. The District Revenue officer  
Namakkal Collector's office  
Namakkal Tk & Dt.,
4. The Revenue Divisional Officer  
Namakkal Collector's Office  
Namakkal, Tk & Dt.,
5. The Tahsildar  
Namakkal Taluk Office  
Namakkal Tk & Dt.,

... Respondents

**Prayer:** This Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 17.3.2020 made in I.A.No.1 of 2019 in O.S.No.187 of 2014 on the file of the Principal District Munsif Court, Namakkal.

For Petitioners ... Mr.N.Manokaran

For Respondents ... No Appearance

\*\*\*\*

**ORDER**

The Civil Revision Petition has been filed under Article 227 of the Constitution of India praying for to set aside the fair and decretal order dated 17.3.2020 made in I.A.No.1 of 2019 in O.S.No.187 of 2014 on the file of the Principal District Munsif Court, Namakkal rejecting the claim of the petitioner.

2. The case of the petitioners is that they have filed impleading petition under Order 1 Rule 10 (2) and Section 151 of the C.P.C. in

I.A.No.1 of 2019 before the Court below in the suit filed by the plaintiff/first respondent herein seeking for permanent injunction against the official defendants. The petitioners are the agriculturists whose land are located nearby the Kuttai poromboke in survey No.67/2, Keerambur village. The said Kuttai is the cause of charging the ground water, and in the result, the ground water in the well dug by the petitioners gets increased. The plaintiff/1<sup>st</sup> respondent herein and her husband are trying to get patta on the basis of a disputed Will alleged to have been executed by one Kaliasammal who never had any right or title over the suit property. The suit property is a Kuttai poromboke, in which neither the plaintiff nor her predecessor could claim any right or title on the basis of the wrong entries made in the revenue records. As per the revenue records the sub division made in the year 1998 through which they are claiming right over the suit property and proposed parties are necessary in the suit because any adjudication over the right to the property in favour of the plaintiff would have impact on the right of the proposed parties/petitioners herein. Further, it will not create any complication in hearing the appeal on merits. After considering the entire oral and documentary evidence, the Court below dismissed the Interlocutory

Application in I.A. No.1 of 2019. Being aggrieved, the petitioners in I.A. No.1 of 2019 has filed the present Civil Revision petition praying for setting aside the order of the Court below.

3. The learned counsel for the petitioners would submit that the plaintiff/1<sup>st</sup> respondent herein and her husband are trying to get patta on the basis of a disputed Will alleged to have been executed by one Kaliasammal who never had any right or title over the suit property. The plaintiff/1<sup>st</sup> respondent herein has purposely omitted to include the petitioners in the suit.

4. It has been further submitted that the persons who are claiming semblance of right are entitled to be heard to avoid litigations in future. In fact, the suit property is a Kuttai Poromboke, in which neither the plaintiff nor her predecessor could claim any right or title on the basis of the wrong entries made in the revenue records.

5. It has been further submitted that if the patta granted in favour of the plaintiff, agricultural activities of the petitioners and right over

getting water from the Kuttai poromboke will be affected and the patta should not be granted.

5. It has been further submitted that the learned Trial Judge can decide the suit after hearing the rival claims of the proposed parties/petitioners herein. Hence, it is necessary to implead the petitioners in the suit as proposed parties. In view of the above, the Court below ought not to have dismissed the I.A. No.1 of 2019. Hence, this Civil Revision Petition has been filed to set aside the order of the dismissal made in the said application.

6. Heard, the learned counsel for the petitioners and perused the material available on record.

7. On going through the decision made by the Court below, it is seen that property in survey No.67/1 is in possession of the petitioners 2 and 3 herein and the first petitioner is having land in survey No.69/1B and 1D and they are all doing agricultural activities which is adjacent to the survey No.67/2, which has been classified as Kuttai poromboke and

due to the stagnation of the water in the Kuttai during the rainy season, water level in the Well, which is being used for doing agricultural activities in their lands, are increasing and all farmers are benefiting the same. If the physical condition of the said Kuttai poromboke is changed by the said plaintiff and her husband, it will be put to severe hardship to the adjacent agriculturists as the water level in the Well will be going to down and they did not have sufficient water for their agricultural activities. The Kuttai poromboke situated in survey No.67/2 has been subdivided as 67/2 and 67/3 and in respect of survey No.67/3, patta has been issued wrongly in the name of one Kaliammal and the plaintiff/1<sup>st</sup> respondent herein and her husband are trying to get patta based on the execution of the Will by Kaliammal. The petitioners herein already given petition to the revenue officials for cancellation of the said patta which is said to have been issued in favour of Kaliammal. It has been stated that entire village will be suffering if the patta is granted in favour of the plaintiff/1<sup>st</sup> respondent herein. Hence, they should be made as parties to the proceedings of the suit in O.S. No.187 of 2014. However, the plaintiff/1<sup>st</sup> respondent herein had filed a counter denying all the averments made in the petition. Further the official defendants in the

Court below had filed a written statement stating that survey No.67/2 has been classified as Government Kuttai poromboke and patta issued in the name of Kaliammal has been barred as per Section 10B of the the Tamil Nadu Minor inams (Abolition and Conversion into Ryotwari) Act, 1965. After considering the above aspect, the Court below by its order dated 17.03.2020 has dismissed the application for impleading the petitioners as the proposed parties.

8. On a perusal of the record, it is clear that the said plaintiff is claiming right over the Kuttai poromboke situated in survey No.67/2 which has been sub divided into 67/2 and 67/3 and in respect of survey No.67/3, patta is said to have been issued wrongly in the name of one Kaliammal but part of survey No.67/2 still stands in the head of Kuttai poromboke. Further, as per the written statement filed by the revenue authorities before the Court below, the survey No.67/2 has been classified as Government poromboke kuttai and patta issued in the name of Kaliammal is not valid as per Section 10B of the the Tamil Nadu Minor inams (Abolition and Conversion into Ryotwari) Act, 1965. Apart from the above, the proposed petitioners have not established any right

over the suit property by way of having any documentary evidence to prove on their side. That being the case, it is absolutely not necessary to implead them as the defendants in the suit and the Court below rightly dismissed the interlocutory application in I.A.No.1 of 2019 which was filed to implead them as the defendants in the suit. If the order has been passed by the revenue authorities it would be a *right in rem* and claim made by the proposed petitioners cannot be granted as they have no *locus standi* to enter into the dispute between the plaintiff and official defendants as their claim in the Kuttai Poromboke that they are benefiting for the agricultural activities due to the increase of water level in the Well in view of the the stagnation of the water in the Kuttai during the rainy season. Hence, for which purpose, they cannot come and claim before the Court that they are directly affected by the proceedings in the suit in O.S. No.187 of 2014.

9. It is also seen that revenue authorities have seized of the matter and the second petitioner herein already approached the Revenue Divisional Officer, Namakkal on 13.6.2016 for cancellation of sub division made in survey No.67/2 and patta granted in the name of

Kaliammal and he was also asked to appear for enquiry on 8.7.2016 along with the related documents. As per the information obtained by the second petitioner herein under the Right to Information Act on 17.10.2018, it is also clear that the enquiry is pending for evidence of the parties. That being the case, the petitioners are not made out a case to implead them as the defendants in the suit. Hence, the Civil Revision Petition is liable to be dismissed.

10. In the result, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed if any. No costs.

**24.03.2021**

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

WEB COPY

**V.BHAVANI SUBBAROYAN, J.,**  
**lbm**

To:

1. The Principal District Munsif Court, Namakkal
2. The District Collector
3. The District Revenue officer  
Collectorate, Tiruchengode Road  
Namakkal, Namakkal Collector's office  
Namakkal Tk & Dt.,
4. The Revenue Divisional Officer  
Namakkal Collector's Office  
Namakkal, Tk & Dt.,
5. The Tahsildar  
Namakkal Taluk Office  
Namakkal Tk & Dt.,



C.R.P.(PD) No.638 of 2021

WEB COPY

24.03.2021