



C.R.P.(NPD).No.2748 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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Viswanathan

.. Petitioner

Vs.

1.The National Highway Authority of India,
Ministry of Road Transport and Highway,
Rep. By its Regional Officer,
SRI Towers, 3rd Floor,
DP-34(SP) Industrial Estate,
Guindy, Chennai – 600 032.

2.The Assistant Engineer,
National Highways,
Chidambaram, Cuddalore District.

3.The Tahsildar,
Vridachalam Taluk, Vridachalam,
Cuddalore District.

4.The Chief Engineer,
National Highways
Government of Tamil Nadu,
Cuddalore District.

.. Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the above Civil Revision Petition and set aside the order dated 15.11.2021 made in 19.R.No.107/2021 in UN O.S.No.Nil of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Neyveli.

For Petitioner : Mr.G.Jareemiah

ORDER

The petitioner is aggrieved by the rejection of the plaint, in an attempted abuse of process of Court by way of a suit.

2. The plaintiff is in occupation of land which is classified as National Highway. When proceedings were taken for eviction of the petitioner, he filed W.P.No.21436 of 2019 challenging the said notice. On 14.02.2020, this Court, directed the 2nd defendant in the suit viz., Assistant Engineer, National Highways, Chidambaram to survey the entire property and decide if there is any encroachment and thereafter remove the encroachment.



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3. Pursuant to the said order, on 01.04.2021, the 2nd defendant issued notice to the plaintiff seeking objections. The plaintiff has submitted his objections on 08.04.2021. Thereafter, the plaintiff issued notice under Section 80 of the Code of Civil Procedure and came up with the instant suit seeking declaration of his title on the ground that he has perfected title by adverse possession. A mandatory injunction restraining the defendants to mutate the revenue records in respect of the suit property in the name of the plaintiff was also prayed for apart from seeking costs.

4. The learned District Munsif on a meaningful reading of the plaint held that the suit is barred in view of Section 15 of the Control of National Highways (Land and Traffic) Act, 2002. Section 14 of the said Act vest jurisdiction in a Tribunal to entertain appeals or orders passed or actions taken under Sections 26, 27, 28, 36, 37 and 38 of the said Act by the Highways Administration or an Authorised Officer. Section 15 of the Act bars the suit in respect of the matters over which the Tribunal is invested with the jurisdiction to decide. Section 26 provides for eviction of unauthorised occupation in land which has been classified as National



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Highways.

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5. The learned District Munsif came to the conclusion that since the land in question is classified as a National highways and notice has been issued to the plaintiff requiring him to vacate and handover possession under Section 26, the plaintiff will have to pursue the said action, he cannot seek a declaration of title on the ground of adverse possession.

6. Mr.G.Jareemiah, learned counsel appearing for the petitioner would vehemently contend that the suit for declaration cannot be said to be barred.

7. While it is open to the plaintiff to defend the action taken under Section 26, the plaintiff cannot approach a civil Court to scuttle the action. The purpose of the bar enacted under Section 14 is only to prevent unscrupulous litigants from invoking the jurisdiction of the civil Court to scuttle the proceedings under a special enactment.

8. I therefore, do not see any error in the order of the District Munsif,



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the revision fails and it is accordingly **dismissed**. No costs. The plaintiff is at liberty to move the Tribunal.

06.12.2021

dsa

Internet : Yes

Index : No

Speaking order

To

The District Munsif cum Judicial Magistrate, Neyveli.



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R.SUBRAMANIAN, J.

dsa

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