



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (PD) (MD) No.1262 of 2021

and

C.M.P. (MD) No.7260 of 2021

Saroja

... Petitioner/Petitioner/
1st Defendant

vs.

1.Vijay Chakkaravarthy,
reb.by Through his power agent Sathaiah.
... 1st Respondent/1st Respondent/ Plaintiff

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District .

4.The Tahsildhar,
Karaikudi Taluk, Karaikudi,
Sivagangai District. ... Respondents 2 to 4/Respondents 2to4/
Defendant 2 to 4

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.2 of 2020 in O.S.No.69 of 2015 on the file of the Additional District Munsif, Karaikudi, dated 30.04.2021.

For Petitioner : Mr.R.Balakrishnan
For R2 to R4 : Mr.K.S.Selvaganesh
Government Advocate

ORDER

The 1st defendant, whose application for rejecting the plaint has been dismissed by the learned Additional District Munsif, Karaikudi, is the revision petitioner before this Court.

2.The facts in brief, which are necessary for disposing of the above petition, are as follows:-



3.The 1st respondent/plaintiff had filed a suit in O.S.No.69 of 2015 on the file of the learned Additional District Munsif, Karaikudi for the following reliefs:-

“அ) தேவகோட்டை கோட்டாட்சியர் அவர்களின் 29.05.2015-ம் தேதிய மு.மு.அ.1.6489/2013 உத்தரவு செல்லாது என விளம்புகை பரிகாரம் வழங்கியும்,
ஆ) ஏற்கனவே வாதியின் பெயரில் காரைக்குடி வட்டாட்சியர் அவர்களால் 23.06.2006 அன்று தா.ப.மா.ட1415/440 என ஏற்பட்டுள்ள உட்பிரிவு மற்றும் பட்டா மாறுதல்கள் செல்லும் என விளம்புகை பரிகாரம் வழங்கியும்”

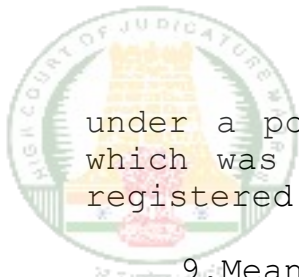
4.It is the case of the 1st respondent/plaintiff that the suit schedule property belongs to one Thangaraj, S/o.Subbiah, in whose name the revenue records had been mutated. The said Thangaraj had sold the property to his paternal uncle's son, namely, Solaiappan under an unregistered sale deed. The said Thangaraj died as bachelor leaving behind no issues. Even prior to the sale in his favour, the said Solaiappan had been enjoying the suit schedule property, which he continued after the purchase. The said Solaiappan had also been obtained patta in his name by an order of the Revenue Inspector dated 25.11.1987 in RIPT No.41/97. The said Solaiappan had been paying necessary taxes in respect of the property. Thereafter, the said Solaiappan under the registered power of attorney dated 03.03.1988 had entrusted the management of the property to one Vivekanandhan, S/o. Ramasamy Ambalam. The said Solaiappan also gave power of sale to the said Vivekanandhan.

5.The power agent sold the property under a registered sale deed dated 12.09.2002 to one Rajaiah, S/o.Manickavasagam. The document of title in respect of the suit property was also handed over to the said Rajaiah. Patta was also transferred in the name of said Rajaiah from the name of Solaiappan.

6.Rajaiah in turn had given power to one P.Padmanabhan under a registered power deed dated 04.04.2005, on the strength of which, the said P.Padmanabhan had sold an extent of 6.30 cents to one Azhagarsamy. The remaining extent of 1 acre and 23.70 cents was sold to the plaintiff, under a registered sale deed dated 17.02.2006.

7.The Tahsildar, Karaikudi, by his proceedings dated 23.06.2006 had subdivided the property purchased by the plaintiff as S.No.42/20A and granted patta in favour of the plaintiff. The remaining extent of 6.30 cents, which had been sold to Azhagarsamy, was subdivided as S.No.42/20B and the patta in patta No.92 was issued in favour of said Azhagarsamy.

8.The plaintiff would submit that from the date of the purchase, he has been in possession and enjoyment of the property. The plaintiff had formed layout of house sites in the suit property. These house sites were known as 'Valliammai Nagar'. The plaintiff had also obtained a power of attorney in favour of one M.Chidambaram,



under a power deed dated 03.07.2006 registered as Doc.No.862/2006, which was subsequently revoked by revocation deed dated 09.06.2009 registered as Doc.No.820/2009.

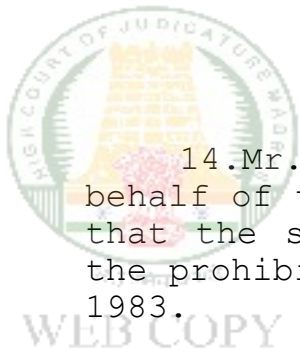
9.Meanwhile, the 1st defendant claiming to be the wife of Thangaraj/the original owner, made an application to the Revenue Divisional Officer, Devakottai for having the patta granted in her name and without any enquiry, orders were also passed on 29.05.2015, which is the subject matter of challenge in the suit.

10.On entering appearance in the above suit, the 1st defendant had taken out an application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint on two grounds. Firstly, the suit is barred by limitation and secondly that the suit is barred by the provisions of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983. The learned Additional District Munsif, Karaikudi on hearing both parties dismissed the said application, against which, the petitioner is now before this Court.

11.Mr.R.Balakrishnan, learned counsel for the petitioner would fairly admit that the question of limitation may not be a ground for rejection, since limitation is a mixed question of law and fact. He would however submit that as per the provisions of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983, no suit would lie in respect of any entry made in any patta pass book or in respect of any entry that has been omitted or amended. The suit is filed for questioning the inclusion of the names of the defendants in the patta pass book and therefore, it would squarely come within the prohibition of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983. He would further argue that the suit filed without seeking declaration of title is also liable to be dismissed.

12.The learned counsel for the petitioner would rely upon the judgment of the Hon'ble Supreme Court reported in **2013 (3) CTC 440 (Venkataraja and others Vs. Vidyane Doureradjaperumal (d) through legal heirs and others)** in support of the above argument. He would draw the attention of this Court to paragraph No.16, wherein, the Hon'ble Supreme Court has held that the proviso to Section 34 of the Specific Relief Act, 1963, has been enacted specifically to avoid multiplicity of the proceedings as well as the loss of revenue of Court fees.

13.The learned counsel would also rely upon the judgment of this Court in **S.A.No.1349 of 2003 (Meenakshi Vs. K.Marimuthu and others)**, where, the learned Judge has held that a suit challenging the grant of patta would come within the four corners of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983 and hence, the same is not maintainable.



14.Mr.K.S.Selvaganesh, learned Government Advocate appearing on behalf of the respondents 2 to 4/Government Authorities would submit that the suit was very much maintainable and does not come within the prohibition of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983.

15.Heard the learned counsels and perused the records.

16.The petition for rejecting the plaint has been filed on two grounds, namely, a) limitation and b) the suit is barred as per the provisions of Section 14 of the Tamil Nadu Patta Pass Book Act, 1983. While arguing the matter, the learned counsel for the petitioner has also referred to Section 34 of the Specific Relief Act, 1963.

17.The learned counsel has fairly conceded that the plea of limitation being a mixed question of law and fact will not be a ground for rejecting the plaint. Therefore, the Court has to analyze as to whether the suit as filed is barred by Section 14 of the Tamil Nadu Patta Pass Book Act, 1983. Section 14 of the Tamil Nadu Patta Pass Book Act, 1983 with its proviso reads as follows:-

"14.Bar of suits:- No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any patta pass book that is maintained under this Act or to have any such entry omitted or amended.

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with any such declaration."

18.Reading of the above provision indicates that the suit would not lie against the Government or an Officer of the Government in respect of a claim regarding an entry in any patta pass book maintained under the Act. However, proviso is added to the Section, which says that where a person is aggrieved when his right is affected by an entry in the patta pass book, he can institute a suit against the person denying or interested in denying title to such right by filing a suit for declaring his rights as provided under Chapter VI of the Specific Relief Act, 1963 and the entry in the patta pass book would be amended in accordance with such declaration. Therefore, if the suit is filed simpliciter against the Government or the public authority challenging an entry made in the Tamil Nadu Patta Pass Book Act, 1983, a suit under Section 14 of the Act would not lie. However, the proviso makes it clear that where



the challenge is to a claim by a third party, then declaratory suit is definitely maintainable.

19.In those circumstances, I do not find any reason to interfere with the orders of the learned Additional District Munsif, Karaikudi in I.A.No.2 of 2020 in O.S.No.69 of 2015 dated 30.04.2021.

20.In the result, this Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mm

To

The Additional District Munsif,
Karaikudi.

+1 CC to M/s.SPL.GP (SR-33760[F] dated 09/11/2021)

+1 CC to M/s.C. ARUL VADIVEL SEKAR, Advocate (SR-33838[F] dated 09/11/2021)

C.R.P. (PD) (MD) No.1262 of 2021
08.11.2021

_RD/PM (24.11.2021) 5P 4C