



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.216 of 2019
and C.M.P.(MD)No.11646 of 2019

Karuppaiah ... Appellant/5th Defendant

Vs.

1.M.Subramani ...1st Respondent/Plaintiff

S.Velu (Died)

2.K.Shanmugavalli

3.Palaniammal

4.Jothimurugan

5.Murugesan

6.The Tamil Nadu Government Rep. By
The District Collector
District Collector Office Complex
Ramanathapuram District - 623 503.

7.The Tahsildar
Office of the Tahsildar
Paramakudi, Paramakudi Town
Ramanathapuram District
(Respondents 2 to 4 are the legal heirs of
deceased 1st respondent)

... Respondents 2 to 7/
Defendants 2 to 8

PRAYER: Appeal Suit filed under Section 96 of the Civil Procedure Code, against the judgment and decree dated 16.08.2019 passed in O.S.No.05 of 2014 before the Additional District Fast Track Court, Paramakudi.

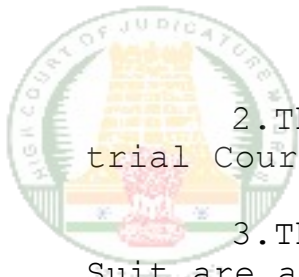
For Appellant : Mr.G.Prabhu Rajadurai

For Respondents: Mr.P.Senthur Pandian for R1
Mr.J.Gunaseelan Muthiah, AGP
for R6 & R7
R2 to R5 dispensed with

JUDGMENT

This Appeal Suit is filed as against the decree and judgment of the trial Court granting a decree for declaration and for consequential injunction.

<https://hosevices.courts.gov.in/services>



2.The parties are referred to as per their rank before the trial Court.

3.The brief facts, leading to the filing of this Appeal Suit are as follows:-

The suit property originally, is in possession of the Adhidraavidar Paraiyar Community Welfare Association. The predecessor of that Community have put up a building and also using the property for their profession. Originally, the property was classified as Survey No.75/1. Thereafter, it was classified as GR Survey No.75/61 and thereafter, classified as Town Survey Nos.79, 80 and 81 and the patta was granted in favour of the President of the Paraiyar Community. There is no path in the suit property. The entire suit property is one plot. Though it was classified as path in Survey No.80, the property was all along under the control of Paraiyar Community Welfare Association and to eke out their livelihood, the community people had migrated to various places. As the building was not fetching any income, the Association decided to sell the property for the benefit of the Paraiyar Community people. Therefore, there was a resolution in the Community to sell the property. Accordingly, the plaintiff purchased the property on 19.05.2008. Eversince of the date of purchase, the plaintiff is in possession of the property. The defendants have no right whatsoever in the suit property. Hence, the suit for declaration and for consequential mandatory injunction.

4. The defendants 2 to 6 have filed a written statement to the effect that the property has been under valued. The property was not a single plot. The survey No.80 is classified as a path in the revenue records. There were no person known as the President of the Paraiyar community. There was no building exists in the suit property. The only allegation in the plaint is that the property was given to the Paraiyar Community is denied and the patta issued in favour of the individual has been cancelled by the Revenue Divisional Officer and the appeal and revision filed as against the same were also dismissed. Hence, it is the contention of the defendants that the property is a Government property. Therefore, the plaintiff is not entitled to any relief in this property and hence, prayed for dismissal of the suit.

5. Based on the above pleadings, the trial Court has framed the following issues:

i) *Whether the plaintiff is entitled to the suit property as per the sale deed dated 19.05.2008?*

ii) *Whether the plaintiff is entitled to get the relief of declaration?*

iii) *Whether the plaintiff is in possession of the suit property?*



iv) *Whether the plaintiff is entitled to get the relief of permanent injunction?*

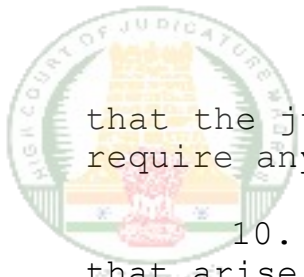
v) *To what other reliefs, the plaintiff is entitled?*

6. Before the trial Court, on the side of the plaintiff, two witnesses were examined as P.W.1 and P.W.2 and Exs.A1 to A17 were marked. On the side of the defendants, two witnesses were examined as P.W.1 and P.W.3 and Exs.B1 to B9 were marked.

7. On the basis of the evidence and materials, the trial Court has granted a decree in favour of the plaintiff. As against which, the 5th defendant has filed the present Appeal Suit.

8. The learned counsel appearing for the appellant submitted that the subject property is a Government property and though in the revenue records, the suit property is classified as GR patta and one particular community was given patta, the title is vested with the Government. Therefore, the said property cannot be alienated in the eye of law and any such sale is null and void. Further, it is the contention of the learned counsel appearing for the appellant that the so-called Association passing resolution is unacceptable and there is no evidence available on record to show that there is an Association. To knock out the property, the so-called Association has been created by the Advocates, who claims to have purchased the property. The trial Court has not even gone into the title of the property and simply on the basis of the patta originally issued in the name of the President of the so-called community, granted a decree, contrary to the findings given by the revenue authorities viz., Revenue Divisional Officer and District Revenue Officer. Hence, submitted that the findings of the Court below is liable to be interfered with by allowing this Appeal Suit.

9. The learned counsel appearing for the respondents submitted that the property was given to the Adhidravidar Paraiyar Community Welfare Association for their profession. They have put up a building and eke out their livelihood by using the above building for their profession. As the building was dilapidated and the majority members of the community have migrated to various other places, in order to augment the income, the Community has passed a resolution for sale of the property for the benefit of the Community. In pursuant to the above resolution, the respondent No.1, viz., the plaintiff has purchased the property for a valuable consideration. The trial Court has clearly appreciated the entire evidence as the entire property itself stood in the name of the Community. There was no bar in law to deal with the above property. That is what the Government Officials also not contested the suit properly. Hence, submitted



that the judgment of the trial Court is well-balanced and does not require any interference.

10. In the light of the above submissions, now the points that arise for consideration in this appeal are as follows:

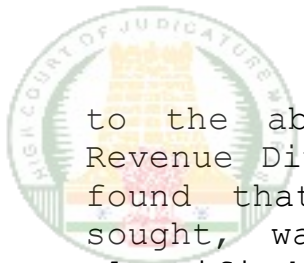
1) When the patta was granted reserving rent for occupation, is the pattadhar would become an absolute owner of the property?

2) If ground rent paid, whether the Government is divested with the title?

3) To what other reliefs, the parties are entitled?

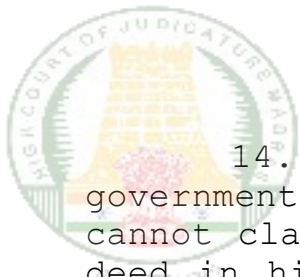
11. The suit has been laid for declaration in respect of the property and consequential injunction based on Ex.A5, dated 19.05.2008. Ex.A5 is a sale deed executed in favour of the plaintiff, said to have been conveyed by certain people claiming to be the President and Secretary of the Adhidraavidar Paraiyar Community Welfare Association. The admitted case of the plaintiff is that the property originally belongs to the Government. The patta was granted in favour of the Paraiyar community to eke out their livelihood. It is further added that the community in general has put up a construction in the suit property. Passage of time, the building was dilapidated and majority members of the community have migrated to other places. Therefore, only few members, who are available in the village at large, have decided to sell the property for a valuable consideration and invested the same for the benefit of the Community. Therefore, it is the contention of the plaintiff that on the basis of the resolution, which was marked as Ex.A17, dated 20.04.2018, the said Association decided to sell the property. Accordingly, the plaintiff has purchased the property.

12. On a perusal of Ex.17, this Court is at loss to understand how the resolution could be passed by only few people and for whose benefit G.R.patta was given for enjoyment in G.R.Survey No.75/61. The very resolution itself clearly shows that the property in G.R.Survey No.75/61 is now classified as Town Survey Nos.79, 80 and 81. Further, to countenance that, there was a valid Association to represent the Community, except a self serving document viz., Ex.A17, no document is filed, to show that the Association was registered or recognized by any other statute. Be that as it may, it is an admitted case that the property is originally a Government property, which was classified as GR patta and the name of the person, who was in occupation, was included in patta. It is to be noted that previously, the name of the entire Community people have been included as they were in occupation. Subsequently, only the name of the few individuals viz., President and Secretary have been included, which have been challenged before this Court in W.P.(MD)No.14174 of 2010. Pursuant



to the above order, a detailed enquiry was conducted by the Revenue Divisional Officer and the Revenue Divisional Officer has found that the property, in respect of which declaration is sought, was originally granted to the Adhidravidar people and classified as Government lands. Now Ground Rent Patta was assigned to them. The order of the Revenue Divisional Officer, Ex.A8 makes it clear that the property has been classified as Ground Rent Patta. Taking note of the classification of the property and the title also vest with the Government, the Revenue Divisional Officer cancelled the patta issued by the Tahsildar in favour of one Muthu, claiming to be the president of the Adhidravidar Community Welfare Association. The order of the Revenue Divisional Officer was also challenged before the District Revenue Officer by way of revision, which also confirmed the order of the Revenue Divisional Officer. Exs.A8 and A9 makes it very clear that the property is classified as a Government land and Ground Rent patta was also issued. Once ground rent was fixed, the title always vest with the Government. The Government is not divested with the title of the property.

13. Therefore, merely because some patta has been issued for the benefit of some group of people for their occupation, subject to the ground rent payable to the Government, one cannot contend that such patta conveys title to the person, who is in occupation of the property. Therefore, as long as the property is a Government property and the title of Government is not divested, merely on the basis of a self serving document like a patta issued in the name of the President of the Community, would not give any title to the person in whose favour the patta was granted or in favour of the Community in general. Therefore, few people, claiming to be the champions of the Community, passing a resolution for sale of the property cannot be appreciated by the Court of Law. Such a sale is infact void *ab initio*. Having found that the property is classified as a Government land, the very registration ought not to have been made by the sub Registrar, taking note of the classification of the property. Therefore, creating some self serving document as a resolution of the Community and followed by a sale deed, will not convey any title to the plaintiff. The trial Court has abdicated its responsibility to look into the documents. The trial Court has infact, casually dealt the matter without going through the classification of property. Such approach of the trial Judge is highly deprecated. That itself shows that the trial Judge has abdicated his total responsibility. The Court has also expressed displeasure over the conduct of the Government Pleader and also the Government in defending the case effectively. They have not even placed any materials properly before the trial Court. That itself clearly shows that there is an element of collusion between the plaintiff and the Government Officials.



14. In such view of the matter, when the land itself is a government land and vested with the Government, the plaintiff cannot claim any right whatsoever merely on the basis of the sale deed in his favour. Such sale deed did not convey any title in favour of the plaintiff. Plaintiff had not entitled to any legal character or any right as to any property, since the property is admittedly, the Government property and classified as poramboke land. In Such view of the matter, the relief of declaration granted by the trial Court is nothing, but perverse and liable to be interfered by this Court.

15. In the result, this Appeal Suit is allowed and the decree and judgment of the trial Court is set aside. Consequently, suit is dismissed with costs. Consequently, connected miscellaneous petition is closed.

16. The Government is directed to take control over the property and use the property only for Government purposes. Since the property is situate within the developing area, there are many eyes on the property, the Government officials particularly, the Collector of Ramanathapuram District is directed to take control over the property and use the property only for the government purposes not for any other purposes.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

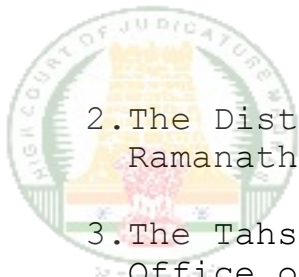
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Additional District Judge, Fast Track Court,
Paramakudi.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The District Collector,
Ramanathapuram.

3.The Tahsildar,
Office of the Tahsildar,
Paramakudi, Paramakudi Town,
Ramanathapuram District.

Copy to

The Section Officer-2 copies
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.SENTHUR PANDIAN, Advocate (SR-8672[F]
dated 04/03/2021)

+1 CC to SPL GP (SR-8757[F] dated 04/03/2021)

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-8873[F]
dated 04/03/2021)

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