



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2021

CORAM :

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

C.R.P. (MD) Nos.2152 and 2153 of 2019
and
C.M.P. (MD) No.11314 of 2019

Kaliyammal

... Petitioner in both C.R.Ps.,
vs.

1.Deivanai

2.Sankar

3.Gandhi

... Respondents in both C.R.Ps.,

COMMON PRAYER:- This Petitions are filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 26.09.2019 made in I.A.Nos.6 and 7 of 2019 in O.S.No.115 of 2010 on the file of the learned District Munsif, Devakottai and set aside the same.

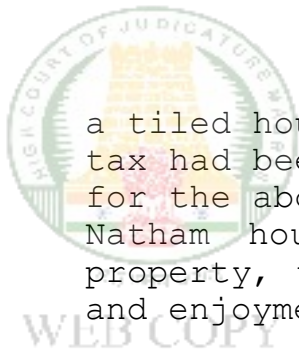
For Petitioner	
in both C.R.Ps.,	: Mr.J.Anandkumar
For Respondents	
in both C.R.Ps,	: Mr.K.Saravanan for Mr.B.Muruganandam

COMMON ORDER

The applications, which have been filed by the plaintiff to reopen and issue summon to the Officer of the Tamil Nadu Civil Supplies Department to adduce evidence, have been dismissed by the learned District Munsif, Devakottai.

2.The plaintiff/petitioner had filed a suit in O.S.No.115 of 2010 on the file of the learned District Munsif, Devakottai for bare injunction restraining the defendants from interfering with her peaceful possession and enjoyment of the suit property, which is an extent of 1.75 cents in S.No.177/58 situate at Dittukottai Village, Devakottai Taluk, Sivagangai District within the specified boundaries.

3.The plaintiff would claim a right to the suit property through his father, namely, Thiruvassagam, to whom the property had been assigned on 20.09.1991. The plaintiff's father had constructed



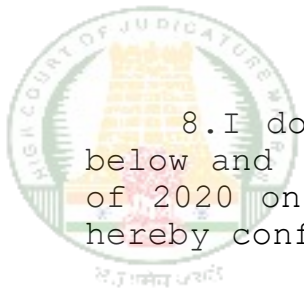
a tiled house in the said premises, in respect of which the property tax had been assessed in the name of the plaintiff herein. The patta for the above property was issued in patta No.181. The property is a Natham house site. The defendants, who had no right over the property, were interfering with the plaintiff's peaceful possession and enjoyment and therefore, the suit came to be filed.

4.The defendants had denied the allegations contained in the plaint. After the evidence had been completed, the petitioner/plaintiff had come forward with the impugned petitions. In the affidavit filed in support of the said petitions, the petitioner would submit that the larger extent of the suit property, namely, S.No.177/58 had been subdivided and patta had been granted to various persons. The defendants have each been allotted a different patta number. Such an allotment was against the rules. Therefore, in order to bring out that the defendants were all residing together and the grant of three different pattas was against the rules, the plaintiff wanted to examine the officials of the Civil Supplies Department, who would be in a position to show as to who are the parties residing in a particular property. The two petitions were heard together and were dismissed ultimately by the learned District Munsif, Devakottai.

5.The learned Judge took the view that the suit is one for bare injunction and the assignment of the patta or otherwise did not have a bearing on the suit in question and it was not an issue to be decided therein. The plaintiff was only bound to prove her possession of the suit property in order to obtain a decree for injunction. With the above view, the learned Judge had dismissed the above applications. Aggrieved by the same, the petitioner had filed the above revision petitions.

6.Heard the learned counsels on either side.

7.The suit is a simpliciter one for bare injunction. The plaintiff would contend that she is in exclusive possession and enjoyment of the suit property, which the defendants were attempting to interfere with. The plaintiff had claimed a right under an assignment patta, which was issued in favour of her father. The defendants on the other hand would also claim a right on the basis of an assignment patta. The present petitions, which are impugned in these revisions, have been filed by the petitioner to reopen the evidence so as to examine the official of the Civil Supplies Department to show that despite living in the same house, all the defendants were in possession of separate pattas. How this is essential to the suit on hand has not been explained by the petitioner. Being a suit for bare injunction, the petitioner has to prove her possession independently. She cannot fall on the documents filed by the defendants to prop up her case.



8.I do not find any infirmity in the order passed by the Court below and the order passed in I.A.Nos.6 and 7 of 2019 in O.S.No.115 of 2020 on the file of the learned District Munsif, Devakottai, is hereby confirmed.

9.In the result, the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The District Munsif,
Devakottai.

+1 CC to M/s.B. MURUGANANDAM, Advocate (SR-36082[F] dated 26/11/2021)

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VR (CO)
KB (30.12.2021) 3P 3C