



W.P(MD)No.7496 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.7496 of 2013

1.Kallavandan
2.Rajalakshmi

...Petitioners

Vs.

1.The District Revenue Officer,
Sivagangai District.

2.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Sivagangai Taluk Office,
Sivagangai District.

4.Pushpa
5.Gnanapackiyamery
6.Vijayeeswari
7.Sivagurunathan
8.Nachammal (Died)
9.Chokku Nadar (Died)
10.G.Nagesan
11.G.Gurunathan
12.Ellappan
13.Moorthy



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14.Velan

15.Chandra

16.Sivakami

17.Valarmathi

18.Sundari.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in Pa.Mu.No.B1/5869/2012, dated 24.02.2012 on the file of the first respondent confirming the order made in Pa.Mu.(A3) 2057/2007 dated 12.03.2010, on the file of the second respondent and the quash the same and consequently direct the respondents 1 to 3 to issue patta in the name of the petitioners for S.Nos.84/2B, 84/2A2, 83/1B, 84/1, 82/1, 2/2, 83/2, 85/1A, 85/1B & 83/1A of Karumbavoor Village, Pillur Group, Sivagangai Taluk.

For Petitioners	: Mr.M.Thirunavukkarasu
For R1 to R3	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R10 to R12	: Mr.J.Barathan for Mr.L.Siva
For R4 to R9, R13 to R18:	No appearance

ORDER

This writ petition is filed as against the orders passed by the District Revenue Officer, Sivagangai District, dated 24.02.2012, in and by which, the District Revenue Officer, Sivagangai/the first



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respondent herein has confirmed the orders of the Revenue Divisional Officer, dated 12.03.2010. The petitioners have also sought for a consequential direction to issue patta to the petitioners for the land in S.Nos.84/2B, 84/2A2, 83/1B, 84/1, 82/1, 2/2, 83/2, 85/1A, 85/1B & 83/1A of Karumbavoor Village, Pillur Group, Sivagangai Taluk. The petitioners claim that those lands belong to their ancestors and they are in possession and enjoyment of the properties. The petitioners have also relied on the revenue records, which are in their favour for possession.

2.The learned counsel appearing for the petitioners submits that the subject properties are their ancestors property and the petitioners are paying the property tax for the subject property. The respondents 8 & 9 are attempting to disturb the petitioners' possession in the year 1994 and therefore, the petitioners herein have filed a suit in O.S.No.657 of 1994 before the Principal District Munsif Court, Sivagangai for the relief of declaration and for permanent injunction with regard to the above properties, wherein,



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the defendants 6 & 9 have not chosen to appear before the trial Court, remained exparte and therefore, the suit was decreed in favour of the petitioners on 22.09.2005. The fifth defendant in that suit has filed an interlocutory application in I.A.No.317 of 2006 in O.S.No.657 of 1994 to condone the delay to file an application to set aside the exparte decree, dated 22.05.2005 and the same was dismissed by the trial Court on 30.10.2006. The fourth respondent's husband, namely Naganathan filed a suit against the petitioners in O.S.No.313 of 1995 before the Additional District Munsif Court, Sivagangai for the relief of permanent injunction in respect of the subject properties and the suit was dismissed as abated by a Judgment and decree dated 22.09.2005. Therefore, according to the learned counsel for the petitioners, the petitioners are having two decrees in their favour in O.S.No.657 of 1994 and in O.S.No. 313 of 1995. However, without considering the same, the Revenue Divisional Officer and the District Revenue Officer have passed the order erroneously, which needs to be interfered with. The learned counsel for the petitioners have also pointed out that the District



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Revenue Officer has relied on the orders passed in I.A.No.1142 of 1995 and the orders passed in CMA as one of the ground to pass the impugned order, which would expose the manner in which the orders have been passed by the District Revenue Officer.

3.Per contra, the learned counsel appearing for the respondents by relying upon the judgment of this Court in ***Meenakshisundaram Textiles vs. Valliammai Textiles Ltd***, reported in ***2011 (3) LW 168*** attacked the judgment and decree passed by the trial Court in O.S.No.657 of 1994 that the said judgment was not only an exparte decree but also the decree was passed without marking any documents and without assigning any reasons. Therefore, the unreasoned Judgment is not in consonance with Section 2 (2) and 2(9) and order 20 of Civil Procedure Code and the exparte decree in Judgment dated 22.09.2005 is a Judgment in person and it is not Judgment in rem. It will not bind the third party to the suit.



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4.The learned counsel further submits that the suit was filed on 07.11.1994. The lands in S.Nos./83/1B, 84/1, 2/2, 83/1A, 84/2AA were sold on 06.10.1994, 06.10.1994, 21.10.1994, 31.10.1994 and 06.10.1994 respectively. Therefore, according to him, most of the properties have been sold even prior to the institution of the suit.

5.This Court considered the rival submissions and also perused the materials placed on record.

6. The petitioners have relied upon the Judgment and decree obtained by them in O.S.No.657 of 1994. However, the decree is an exparte decree. Admittedly, no document has been marked by the trial Court. The learned counsel for the respondents have relied on the order of the Honourable Division Bench of this Court, in the case of *Meenakshisundaram Textiles Vs Valliammal Textiles Ltd*, reported in *2011 (3) CTC 168*, wherein it was held as follows:-



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5. *We have heard the respective learned counsel on either side on the above question. Section 2(9) of the Code of Civil Procedure defines a "judgment" as meaning, the statement given by the judge on the grounds of a decree or order. In this context, Order XX Rules 4 (1) & (2) are also referable, which read as under:-*

"4. Judgment of Small Cause Courts.--

(1) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.

(2) Judgments of other Courts.--Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision."

Order XX Rule 4(1) relates to the judgment of a Court of Small Causes. Inasmuch as the said judgment does not require more than the points for determination and that the decision thereon, a judgment of a Court of Small Causes shall not fall under Section 2(9) of the Code of Civil Procedure. Insofar as the judgment of other Court is concerned, in terms of Order XX Rule 4(2), it shall contain a concise statement of the case, the points for



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determination, the decision thereon, and the reasons for such decision and therefore it shall fall under Section 2(9) of the Code of Civil Procedure and in that sense, all the ingredients contained in Order XX Rule 4(2) must be available in that judgment. This is more so in view of the provisions of Order XX Rule 5 relating to the duty of the Court to state its reasons on each issue. That Rule reads as under:-

"5. Court to state its decision on each issue.--In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit."

6. In terms of the above provisions, every judgment should contain a concise statement of the case, the points for determination, decision thereon and the reasons for such decision. A judgment which does not contain the bare minimum facts, the point for determination, the evidence adduced and the application of those facts and evidence for deciding the issue would not qualify it to be called as "judgment". The judgment should contain the brief summary of the facts, the evidence produced by the



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plaintiff in support of his claim and the reasoning of the learned Judge either for decreeing the suit or its dismissal. The Civil Procedure Code does not say that the Court is bound to grant a decree in case the defendant is absent. Judgment means cognitive process of reading a decision or drawing conclusion. Judgment is the basic requirement for a court and it means a decision or conclusion reached after consideration and deliberation. To put it differently, the basics of a judgment are to support by most cogent reasons that suggest themselves the final conclusion at which the Judge has conscientiously arrived.

21. From the above discussions, it is manifestly clear that even a judgment rendered ex parte and a decree is drawn on the basis of that judgment, it is appealable. In case that judgment and decree become final without there being any appeal, the decree is executable. In that sense, there is no difference between a judgment and decree and an ex parte judgment and decree. In view of the above, in the event the defendant is set ex parte, the Court should be extra careful in such case and it should consider the pleadings and evidence and arrive at a



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finding as to whether the plaintiff has made out a case for a decree. In this context, it may also be mentioned that though a detailed judgment is required in a contested matter, an ex parte judgment should show the application of the minimum requirement of consideration of the pleadings, issues, evidence and the relief sought for rendering such judgment.

7.In view of the ratio laid down by the Honourable Division Bench of this Court as stated supra, this Court is not inclined to interfere with the orders impugned in this writ petition. However, this writ petition is disposed of with a liberty to the petitioners to work out their remedy by filing a civil suit before the competent civil Court and establish their rights by producing the relevant documents. In the event, if the petitioner file a civil suit, the period of litigation, which is pending before this Court shall be excluded for the purpose of calculating the limitation. Considering that this *lis* is pending for the past ten years, the trial Court shall endeavour to conclude the trial as expeditiously as possible. The



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parties are also expected to co-operate for an early disposal of the suit before the trial Court. No costs.

26.06.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes

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B.PUGALENDHI, J.

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