



C.R.P(MD)No.2113 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **03.08.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2113 of 2019

V.Dharmarajan

...Petitioner/Plaintiff/

Vs.

1.K.Sonai

2.The Taluk Land Surveyor,
Vadipatti Taluk,
Madurai District.

3.The Tahsildar,
Vadipatti Taluk,
Madurai District.

4.The Sub Registrar,
Registration Department,
Vadipatti Taluk,
Madurai District.

...Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the District Munsif Court, Vadipatti to number the unnumbered plaint in O.S.No. of 2019 CNR.No.TNMD 19000 174 2019 filing No.202 of 2019 dated 24.10.2019 on the file of the District Munsif Court, Vadipatti.



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For Petitioner : Mr.M.Venkatesan
For R1 : Mr.S.Vellaichamy
For R2 to R4 : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

This civil revision petition has been filed to direct the District Munsif Court, Vadipatti to number the unnumbered plaint in O.S.No. of 2019, dated 24.10.2019.

2. The facts which give rise to the filing of the instant civil revision petition is that the petitioner herein has presented a plaint before the Court below for the relief of declaration to declare the patta which stands in the name of the first defendant as null and void and for other reliefs. On presentation of the plaint, the Court below has rejected the same on the ground that under Sections 12 and 13 of the Tamil Nadu Patta Passbook Act, civil jurisdiction is barred.

3. The learned counsel for the petitioner would refer the judgment of the learned Single Judge of this Court in the case of ***G.Ramanujam Vs State of Tamilnadu, represented by its District Collector, Tuticorin***



and others reported in **2021-2-L.W.325**, wherein, similar issue was dealt with. The relevant portion of the order reads as follows:

"20. Be it the Tamil Nadu Survey and Boundaries Act, or the Patta Passbook Act, both provide for a right of hearing of the party who is likely to be affected by the contemplated actions of the authorities concerned. When this right of hearing is not so granted, it is not only a blatant violation of the principles of natural justice, but also breach of statutory procedure for exercise of authority by the officials concerned. Hence, the same can be challenged in a civil suit, notwithstanding the statutory bar, even if any, in any of these statutes. Consequently, the present suit is maintainable. The substantial question No.1 is thus decided in favour of the plaintiff. So far as the second of the substantial question is concerned, since the suit is not instituted for declaration of plaintiff's title, the same is not required to be decided."

4. As per the above judgment, even if there is a statutory bar, when there was a violation of principles of natural justice and no notice was served upon the other party, the patta proceedings could be challenged in a civil suit notwithstanding the statutory bar, even if any, in any of the statutes.

5. In view of the above precedent, this Court is of the view that this civil revision petition may be allowed with a direction to the learned Trial Judge to number the plaint, if the same is otherwise in order. And



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liberty is given to the defendants to raise the defence of bar of jurisdiction based on Tamil Nadu Patta Passbook Act. If that being the case, the learned Trial Judge is directed to dispose of the suit without being influenced by the order of this Court.

6. In the result, this civil revision petition stands **allowed**. Hence, the Registry is directed to return the original plaint to the petitioner's counsel on proper undertaking. The time for representation is two weeks from the date of receipt of the copy of this order. No costs.

03.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The District Munsif Court,
Vadipatti.
2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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