



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

S.A.No.1302 of 2013
& M.P. No.1 of 2013

1.Lalitha

2.R.Padmanaban

3.Manoharan

4.Rajendran

... Appellants/plaintiffs

Vs.

1.The District Collector,
Villupuram.

2.The Special Officer,
Adidravida Welfare,
District Collectorate,
Villupuram.

... Defendants/respondents

Prayer:- This Second Appeal has been filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 11.03.2013 in A.S.No.64 of 2011 on the file of the learned II Additional Sub Judge, Villupuram confirming the judgment and decree dated 31.03.2011 passed in O.S.No.16 of 2008 on the file of the Court of the Additional District Munsif, Villupuram.

For Appellants : Mr.N.Suresh
For Respondents : Dr.S.Suriya, AGP(CS)

JUDGMENT



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This Second Appeal has been preferred against the Judgment and decree dated 11.03.2013 in A.S.No.64 of 2011 on the file of the learned II Additional Sub Judge, Villupuram confirming the judgment and decree dated 31.03.2011 passed in O.S.No.16 of 2008 on the file of the Court of the Additional District Munsif, Villupuram.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking in the suit before the trial Court.

3.O.S.No.16 of 2008 was filed by the plaintiffs for bare injunction restraining the District Collector and the Special Tahsildar, Adi Dravida Welfare from interfering with the peaceful possession and enjoyment of the property. The claim of the plaintiffs is that they are the owners of the suit property and the respondents are interfering with their possession without following the procedure established under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978) (in short, 'the Act').

4.In response, a statement was presented by the defendants stating



that the Civil Court has no jurisdiction to deal with any acquisition proceedings that have been initiated as there is a bar under Section 17 of the Act.

5.The matter went for trial and the original plaintiff examined himself as PW1 and marked Exs.A1 to A12. One Jyothi, the Special Tahsildar, Adi Dravidar Welfare examined herself as DW1 and marked Exs.B1 to B5.

6. The trial Court after considering the entire evidence, came to the conclusion that the land owner had not been put on notice by the defendants prior to the acquisition but refused to exercise the jurisdiction in favour of the plaintiff in line of Section 17 of the Act. The lower Appellate Court confirmed the same, against which the present Second Appeal was preferred and it was admitted on 29.11.2013, on the following substantial questions of law:

- (i) Whether the Courts below have erred in dismissing the suit inspite of the fact that the respondents have committed flagrant violation of law?



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(ii) Whether the Courts below have erred in dismissing the suit when it is proved by evidence that the property of the plaintiffs is sought to be acquired under Tamilnadu Act 31/1978 without even a show cause notice issued to the owner under Section 4(2) of the said Act?

(iii) Whether the Courts below have committed fundamental error in dismissing the suit as it is admitted and proved by record that the proceedings under Tamilnadu Act 31/1978 was sought to be initiated against the dead person?

7. The simple point to be considered in this case is whether Section 17 of the Act operates as a bar in matters relating to acquisition of land by the defendants. Section 17 of the Act reads as follows:

“17. Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the Government or the District Collector or the prescribed authority is, empowered by or under this Act, to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act.”



8.This provision makes it clear that no civil Court shall have jurisdiction to entertain and challenge the land acquisition proceedings which have been initiated under the Act 31 of 1978. The only remedy available for the party in such circumstances is to approach this Court by way of a writ petition invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India.

9.The jurisdiction of the civil Court can be barred expressly or impliedly. In the present case, it has been barred expressly by virtue of Section 17 of the Act. Therefore, the plaintiffs had been barking up the wrong tree. The plaintiff has been litigating the matter under the impression that the civil Court has jurisdiction to set aside the land acquisition proceedings. Though the proceedings itself is not directly issued, the plaintiffs had not sought for declaration of title as there was cloud over their title. Appropriate remedy that ought to have been for the plaintiffs is to approach this Court as stated above. That has not been done and in the light of the specific bar under Section 17 of the Act, the plaintiffs cannot succeed in the present Second Appeal.

10.Noting the view of this Court that the civil Court has no



jurisdiction to entertain the suit, Mr.N.Suresh, would urge that the present Second Appeal may be converted into a writ petition. It is possible for this Court to convert one civil proceedings into the other. But the plea put forth by the learned counsel cannot be entertained inasmuch when the jurisdiction itself is not available to entertain a suit before the civil Court, this Court cannot convert the suit which had been filed before the learned District Munsif Court into a writ petition. Therefore, leaving it open to the plaintiffs/appellants to approach this Court, if they are so advised, by way of a writ petition, this Second Appeal is dismissed. Since the plaintiffs/appellants have been pursuing their remedy before the Courts below as well as before this Court, the period taken from 08.01.2008 till today, shall stand excluded. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2024

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To

- 1.The II Additional Sub Judge, Villupuram
- 2.The Additional District Munsif, Villupuram



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V.LAKSHMINARAYANAN.J,

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8

SA.No.1302 of 2013

29.01.2024