



S.A.No.998 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Second Appeal No.998 of 2013 &
M.P.No.1 of 2013

1.P.Kannu
2.Meenatchi

... Appellants/Plaintiffs

-Versus-

1.The District Collector, Tiruvannamalai
2.Revenue Divisional Officer, Tiruvannamalai.
3.Tahsildar, Tiruvannamalai
4.Kuppusamy Gounder (Died)
5.Kullammal
6.Panner Selvam
7.Sathiya

... Respondents/Defendants

Appeal filed under Section 100 of C.P.C. against the judgement and decree dated 18.10.2012 made in A.S.No.11 of 2012 on the file of the Additional Sub Court, Tiruvannamalai District confirming the Judgment and Decree dated 30.09.2011 made in O.S.No.323 of 2008 on the file of the Principal District Munsif Court, Tiruvannamalai.

For Appellants : *Mr.K.Venkatasubban*
for M/s.Sarvabauman Associates

For Respondents : *Mr.M.Muthusamy,*
1 to 3 Government Advocate

For Respondents : *Mr.V.Manohar for*
5 to 7 Mr.K.Balaji



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JUDGEMENT

The plaintiffs are the appellant before me. They filed a suit for declaration that they are entitled to possessory title for items 1 and 2 of the suit schedule mentioned property and for permanent injunction restraining the fourth defendant from interfering with the plaintiffs' peaceful possession and enjoyment over the first and second items of the suit schedule mentioned property.

2. It is the case of the plaintiffs that items 1 to 3 are depressed class lands or DC lands. According to him, patta for the said properties can be granted only in favour of persons who belong to Schedule Caste Category. He would state that the fourth defendant is not a schedule caste member. He would plead that on 13.08.1995, the Tahsildar of Thiruvannamalai had granted DC patta in favour of the second plaintiff for item No.3. Instead of granting assignment for items 1 and 2 in favour of the plaintiffs, Tahsildar had assured that he would do the same, but he had been postponing it since then. Instead, the patta for the said items had been granted in favour of the fourth defendant by violating the Government conditions. According to the plaintiffs, the fourth defendant is a big landlord and an influential person having large extent of property. They would state that the Depressed Class lands should not be assigned to any third



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party other than the schedule caste members and since it was done so, they came forward with the suit. They would state that they had issued notice to the Government under Section 80 of the Code of Civil Procedure and since there was no response, they were constrained to file a suit for the aforesaid reliefs.

3. The defendants 1 to 3 are the Government. They remained *exparte*. The fourth defendant entered appearance and filed a detailed written statement.

4. According to fourth defendant, the suit properties originally belonged to two persons Chinnappa Chetty and Royappa Chetty. They had alienated the same in favour of Kuzhanthai Ammal on 10.07.1948. Kuzhanthai Ammal had alienated the property for her family necessity in favour of the fourth respondent on 01.12.2004. This is his contention regarding title with respect to item 1. Insofar as item 2 is concerned, the fourth defendant would state that the property belonged to one Narayanasamy Reddy, who had sold the property to one Suriyan. This sale was as early as 11.01.1973. After the sale had been made, Suriyan had alienated the property in favour of the fourth defendant on 07.11.1985. Since the fourth defendant had title deeds in his name, he approached the Tahsildar and got the patta in his name. The specific case is that the lands are not depressed class lands and are private holdings.



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5. The learned trial judge on the basis of these pleadings framed the following issues:

“1. Whether the suit properties are the depressed class lands allotted by the Government to Panchamars (Schedule Caste Persons)?

2. Whether the sale deeds dated 11.01.73 and 1.12.2004 are binding the plaintiffs?

3. Whether the plaintiffs are entitled for declaration and permanent injunction as prayed for?

4. To what relief, the plaintiffs are entitled? ”

6. On behalf of the plaintiffs, the first plaintiff/Kannu examined himself as PW1 and his wife viz., Meenatchi/the second plaintiff was examined as PW2. Ex.A1 to Ex.A12 were marked. On the side of the defendants, the fourth defendant/Kuppusamy Gounder examined himself as DW1 and marked Ex.B1 to Ex.B6.

7. The learned trial judge came to the conclusion that no evidence had been let in to prove that items 1 and 2 were depressed category lands and held that the plaintiffs had not produced any evidence other than their lawyers' notice stating that they are Panchami lands and hence they are incapable of being



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alienated to any person other than a person belonging to a schedule caste community. Having come to the conclusion that the lands are not DC lands, the suit was dismissed.

8. Aggrieved by the same, a regular appeal was preferred before the learned Subordinate Judge, Tiruvannamalai. The appeal was taken on file in A.S.No.11 of 2012 and dismissed on 18.10.2012.

9. Against the concurrent findings of the courts below, the present second appeal has come before this Court.

10. On 26.11.2013, this Court did not admit the appeal but had issued notice regarding admission. Pending the appeal, the fourth defendant had passed away and therefore, his legal representatives were impleaded as respondents 5 to 7.

11. I heard Mr.Venkata Subban for Sarvabauman Associates for the appellants/plaintiffs and Mr.V.Manoharan, for Mr.K.Balaji for the respondents 5 to 7.



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12. Mr.Venkata Subban would submit that the property being DC lands and the same having been alienated in favour of the plaintiffs, the purchase made by the fourth defendant is bad. He would further submit that the grant of patta on the basis of sale deed is also illegal because as per the Government Orders, patta cannot be granted to non schedule caste persons.

13. Mr.V.Manoharan would submit that the fourth defendant had purchased the property in 1948 and 1973. In fact, the first plaintiff himself was one of the attesting witnesses to the documents. He would point out that the Government at no point of time had stated that the lands are DC lands and this fact being a concurrent finding, there is no question of interference by this Court.

14. I have carefully perused the records and I have heard the arguments on either side.

15. It is a clear and categorical case of the plaintiffs that the lands are depressed class lands. Therefore, the burden lay heavily on them to prove that the lands are falling under the said category. However, the plaintiffs have not filed even a shred of paper in order to demonstrate that the lands are depressed



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class lands. The assertion of the plaintiffs seems to arise from the lawyer's notice that had been issued to the parties and in my view a lawyer's notice does not deal with the classification of lands i.e., either depressed or otherwise.

16. The courts below analysed this aspect of the case and they have come to the conclusion that since no records have been produced to prove that items 1 and 2 are depressed category lands, they have dismissed the claim of the plaintiffs.

17. Turning to the claim of possessory title, the plaintiffs have not filed any document to show that they have been in possession and enjoyment of the same. On the contrary, the fourth defendant had shown under Ex.B2 to EX.B5 that he has purchased items 1 and 2 at least three decades before the presentation of the plaint. In order to show his possession, he has produced Ex.B6 which is the chitta for the land bearing patta No.99. The fact that patta No.99 had been issued to the fourth defendant, has been admitted by the plaintiffs even in their plaint in paragraph 7.

18. Therefore, the fourth defendant has convinced the court that he has better title to the property than the plaintiffs. The property being a patta land,



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the question of classifying it as depressed category lands does not arise at all. In case it is a DC land, it is for the Government to take appropriate steps and it is not for the meddlesome interloper like the plaintiffs to claim right over the property.

19. I do not find any question of law muchless substantial question of law for admitting the appeal. The appeal is dismissed. The judgment and decree of the courts below stand confirmed. However, in the circumstances, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

22.03.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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To

- 1.The Additional Sub Court, Tiruvannamalai District
- 2.The Principal District Munsif Court, Tiruvannamalai.



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V.LAKSHMINARAYANAN, J.
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