



C.R.P.No.1289 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.R.P.No.1289 of 2023

and C.M.P.No.8655 of 2023

1. R.Mariappan

2. R.Manickam

...Petitioners/Petitioners/Defendants No.2 & 3

vs.

1. G.Mallikarjunan

2. Manonmani

... Respondents/Respondents/plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside in the fair and decreetal order dated 27.02.2023 in I.A.No.856 of 2016 renumbered as I.A.No.05 of 2022 in O.S.No.280 of 2011 on the file of Additional District Munsif, Pollachi.

For Petitioners : Mr.R.Subramanian

For Respondents : Mr.C.Veeraraghavan

ORDER

This Civil Revision Petition has been filed by the defendants no.2 and 3 against the order dated 27.02.2023 passed in I.A.No.856 of 2016 renumbered as I.A.No.05 of 2022 in O.S.No.280 of 2011 on the file of Additional District Munsif, Pollachi.



C.R.P.No.1289 of 2023

2. Heard Mr.R.Subramanian, learned counsel for the petitioners and Mr.C.Veeraraghavan, learned counsel for the respondents.

3. Originally, suit was laid by G.Malligarjunan son of G.Govindaraju Chettiar against R.Rakkiyappa Gounder for the following relieves:

- i. Directing the defendants to vacate the suit property and handover the possession of the suit property to the plaintiff.
- ii. Granting a permanent injunction restraining the defendants and his men from in anyway putting up any further new construction in the suit property.

4. The suit property is land to an extent of four acres in S.F.No.3 in Patta No.62, house bearing D.No.5/5 and the newly constructed house situated in Nallattipalayam Village, Kinathukadavu Sub Registration, Coimbatore Registration District.

5. Mr.R.Subramanian, the learned counsel for the petitioners would vehemently contend that, it is an admitted fact that the defendants namely the revision petitioners are cultivating tenants and the plaintiff can only file the petition before the Revenue Authorities under the Tamil Nadu Cultivating Tenants Protection Act, 1955. To buttress his argument, he



referred to the judgment of this Court rendered in *Periathambi Goundan*

Vs. The District Revenue Officer, Coimbatore reported in AIR 1980

MADRAS 180. Wherein, it has been stated that:

“42. Our conclusion as to what are the matters which are within the exclusive jurisdiction of the authorities constituted under the Act and with reference to which the bar imposed by Section 16-A comes into operation gains confirmation from the provisions of Section 14 (1) as already indicated. The various enactments enumerated in Section 14 (1) are all enactments dealing with the rights and liabilities of land-owners and tenants to whom land has been let for cultivation. In the context of the proceedings initiated under the provisions of those Acts, the particulars mentioned in Section 3(2) of the Act will assume importance and the preparation of the approved record under the Act will constitute a preliminary determination of the matters necessary for invocation of the jurisdiction of the authorities functioning under the Acts enumerated in Section 14(1). If this aspect is borne in mind, it will be indisputably clear that the matters which are within the exclusive jurisdiction of the authorities constituted under the Act are limited by the provisions contained in Section 3(2) the Act, because those were the particulars which are directed to be included in the approved record to be prepared under the Act.”



C.R.P.No.1289 of 2023

6. The suit was originally filed before the District Munsif Court, Pollachi in the year 2011. Thereafter, it appears that the suit was transferred to Additional District Munsif Court, Pollachi. In the year 2016, an application was moved by the legal heirs of R.Rakkiappa Gounder (defendant) under Order VII Rule 11 of the Civil Procedure Code, 1908 in I.A.No.856 of 2016 to reject the plaint. It has been further averred in the petition that the suit was filed for delivery of possession is not maintainable on the ground that the plaint suit property is an agricultural land and the trial Court has no jurisdiction to try the suit which is barred under Section 6 of the Tamil Nadu Cultivating Tenants Protection Act, 1955.

7. The learned Trial Judge upon consideration has dismissed the petition by holding that the acts of the petitioner are in the nature of denying title of the plaintiff to the suit property, and it has to be decided only after full fledged trial. Based on the cause of action details, the case need not be transferred to the Revenue Divisional Officer and chose to dismiss the petition.

8. For clear understanding, Order VII Rule 11 of CPC is extracted hereunder:

11. Rejection of plaint.— The plaint shall be rejected in the



following cases:—

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- (e) where it is not filed in duplicate*
- (f) where the plaintiff fails to comply with the provisions of rule 9: [Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]*

9. On a careful perusal of the details of the affidavit filed in the petition, it appears that an application under Order VII Rule 11 of C.P.C was moved by the defendants under Order 7 Rule 11(d) of CPC. Order VII



Rule 11 (d) of CPC states that where the suit appears from the statements made in the plaint to be barred by any law. By invoking this provision, suit may be rejected. In order to decide this issue, it is relevant to extract the cause of action in the plaint:

" 7. The cause of action for the suit arose in 2003 when the plaintiff came to know that the defendants has obtained property Tax assessment and the service connection in his name and in the month 2nd week of April 2011 when the plaintiff came to know that the defendants put up the constructions and is making arrangements to put up additional constructions at Nallattipalayam Village in Pollachi Taluk situate within the Jurisdiction on this Hon'ble Court."

10. The plaint reads that defendants obtained Tax assessment and service connection in his name which amounts to denial of the title to the suit property. It has also been averred in the plaint that the defendants have raised construction in the suit property without the permission of the plaintiff.

11. The above said details of the plaintiff explicate the fact that the title of the plaintiff is denied. In the given circumstances, whether the defendants are entitled to the benefits of Tamil Nadu Cultivating Tenants Protection Act is the crucial question to be decided.



12. When the plaintiff has clearly averred in the plaint that the defendants who is a tenant has raised construction, obtained tax assessment and service connection in his name clearly amounts to denial of title. Therefore, defendants are not entitled to any protection under the Tamil Nadu Cultivating Tenants Protection Act. My views are fortified by the observations of the Hon'ble Supreme Court made in *Cinnaamuthu Gounder and others Vs. P.A.S.Perumal Chettiar* reported in (1970) 1 SCC 451. Wherein, it has been held that:

1. *The clear import of Section 6-A is that in any suit before any civil court for possession, if the defendant proves not only that he is a cultivating tenant but also that he is entitled to the benefit of the Act, the civil court is bound to transfer it to the Revenue Divisional Officer and such suit cannot be decided by the civil court. The section provides that a wilful denial of title of a defendant would disentitle from the benefits.*
2. *The appellants having been found to have wilfully denied the title of the landlord, they became disentitled to the benefit of the Act by virtue of Section 3(2)(d) of the Act. The trial of the suit was quite competent in the civil court.*

13. When the title of the plaintiff namely the owner of the suit property is implicitly denied by raising construction in the suit property,



C.R.P.No.1289 of 2023

then the defendants are not entitled to the benefits of the Cultivating Tenants Protection Act. The trial Court has observed rightly and dismissed the petition.

14. I find no infirmity or perversity in the order of the trial Court. Based on the above said discussions and legal positions, this Civil Revision Petition stands dismissed. This suit has been filed in the year 2011. Therefore, a direction is issued to the effect that the trial Court shall dispose of the suit preferably within a period of six months from the date of receipt of a copy of this Order. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition stands closed.

19.08.2024

Index : Yes/No
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C.R.P.No.1289 of 2023

R.KALAIMATHI, J.

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To

The Additional District Munsif, Pollachi.

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and C.M.P.No.8655 of 2023

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