



C.R.P.(PD).No.3363 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.3363 of 2016
and C.M.P.No.17161 of 2016

1.G.Latha

2.K.Ganesan

... Petitioners

VS

1.Issac Paranjothi

2.Esther

3.Grace Lydia

4.Hepzipah

5.G.Radhakrishnan

6.M.Vijayakumar

7.R.Janarthanan

8.The Collector,
Tiruvallur District,
Having office Tiruvallur with in the Jurisdiction of
District Munsif Court, Tiruvallur.



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9. The Tahsildar,
Ambattur Taluk, Ambattur
Chennai – 600 053.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the Civil Revision Petition by setting aside the Fair Order and Decretal order dated 18.02.2016 passed in I.A.No.579 of 2014 in O.S.No.179 of 2013 on the file of the Sub Ordinate Court, Poonamallee, allow I.A.No.579 of 2014 as prayed for by rejecting the plaint in O.S.No.179 of 2013 pending on the file of the Sub Ordinate Court, Poonamallee.

For Petitioners : Mr.B.Harikrishnan

For R1 to R4 : Mr.P.Thiagarajan

For R5 to R7 : SS Petition and Affidavit Due

For R8 and R9 : Mr.V.Jeevagiridharan (AGP)

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners seeking rejecting of the plaint.

2. The respondents 1 to 4 filed a suit in O.S.No.179 of 2013 on the file of the Sub Court, Poonamallee seeking declaration that Assignment Patta dated 18.09.1995 issued in favour of one Rajakanthammal by the Special Tahsildar (Assignment), Ambattur was a forged one. The respondents 1 to 4 also sought for a declaration of their title over the suit property and



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consequential injunction restraining the petitioners and other defendants from alienating the suit schedule property to third parties.

3. The petitioners herein, who were arrayed as defendants 1 and 2 in the suit filed an application in I.A.No.579 of 2014 seeking rejection of the plaint. It was the case of the petitioners that 1st petitioner purchased the suit property from 2nd petitioner in his capacity as Power Agent of original owner of Rajakanthammal. It is the specific case of the petitioners that the said Rajakanthammal filed rent control eviction petition in RCOP.No.5 of 1998 on the file of the District Munsif Court, Ambattur against one Suseela Issac, wife of 1st respondent/1st plaintiff and obtained an order of eviction against her. The present suit has been filed by the respondents 1 to 4 without disclosing the rent control proceedings initiated by the original owner. Therefore, the present suit is barred by law and plaint is liable to be rejected as there was no cause of action.

4. The present suit has been filed by the respondents 1 to 4 seeking



declaration of their title over the suit property. Merely because, the rent control proceedings were initiated and eviction order was obtained against the wife of 1st respondent, we cannot come to the conclusion that the respondents 1 to 4 are not entitled to canvass their title over the suit property in a civil suit.

5. It is settled law that the Rent Controller cannot decide the question of title of the parties and in order to maintain the eviction petition, the landlord need not be the owner of the property. In such circumstances, the civil suit filed by the respondents 1 to 4 cannot be treated as barred by law, merely because, a rent control eviction order was obtained by the landlord against the wife of 1st respondent.

6. The Court below on appreciation of averment found in the plaint rightly came to the conclusion that on the basis of the averments available in the plaint, a cause of action is disclosed and hence, the plaint cannot be rejected. I do not find any error in the order passed by the Court below dismissing the application filed by the petitioners seeking rejection of the plaint.



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WEB COPY 7. Accordingly, the Civil Revision Petition stands dismissed. However, it is always open to the petitioners to raise all defences available to them under law and resist the suit by filing the written statement. No costs. Consequently, the connected civil miscellaneous petition is closed.

13.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

- 1.The Subordinate Court,
Poonamallee.
- 2.The Collector,
Tiruvallur District,
Having office Tiruvallur with in the Jurisdiction of
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- 3.The Tahsildar,
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S.SOUNTHAR, J.

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