



C.RP(MD)Nos.155 and 156 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:29.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)Nos.155 and 156 of 2022
and
C.M.P(MD)Nos.668 and 670 of 2022**

- 1.M.Ocha Thevan
- 2.S.P.Pandi(Died)
- 3.Soundararajan
- 4.Ramu
- 5.Chinthamani
- 6.Raja
- 7.Selvam
- 8.Petchi
- 9.P.Karthikeya Rajan
- 10.Illaiyarani
- 11.P.Samiyappan
- 12.P.Rajan Babu

..Petitioners/Petitioners/

1 to 7 Defendants in both CRPs

*(P8 to P12 are brought on record as LR's of the
deceased 2nd petitioner vide Court order dated
19.07.2022)*

Vs.

1. Valli
2. Gnanasekaran
3. Kannan



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4.Arumugam(Died)

5.Chandra

6.Pandi

7.A.Senthil Kumar

8.A.Anitha

9.A.Kohila

10.A.Rajesh Kumar

...Respondents 1to10/
Petitioners/Plaintiffs

11.The District Collector,
Office at Collectorate,
Madurai.

12.The District Revenue Officer,
Office at Collectorate, Madurai.

13.The Tahsildar,
Thirupparankundram Taluk,
Office at Taluk Office,
Thirupparankundarm Taluk,
Madurai.

...Respondents 11 to 13/
Respondents 8 to 10/Proposed
Defendants 8 to 10 in both CRPs

Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 30.11.2021 in I.A.Nos.141 and 142 of 2021 in O.S.No.224 of 2018 on the file of the Additional District Munsif Court, Thirumangalam.

For Petitioner :Mr.S.Sankar
For R1 to R3,R5
to R10 :Mr.J.Barathan



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For R11 to R13 :Mr.Jayaseelan
Government Advocate
For R4 :Died
(in both cases)

COMMON ORDER

The Civil Revision Petitions are directed against the fair and decreetal order passed by the Additional District Munsif Court, Thirumangalam, dated 30.11.2021 in I.A.Nos.141 and 142 of 2021 in O.S.No.224 of 2018.

2.By the said order, the trial Court had allowed the application for amendment filed by the plaintiff. By the said petition, the plaintiff had prayed for an amendment to amend the relief prayed for in the suit by including a prayer to declare that the order passed by the 9th defendant in its proceedings dated 18.01.2021, is null and void and are not binding upon the plaintiffs and also had prayed to include paragraph in IX(aa) of the plaint averments as against the alteration of the patta.



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3.Heard Mr.S.Sankar, learned counsel appearing on behalf of petitioners, Mr.J.Barathan, learned counsel appearing for R1 to R3, R5 to R10 and Mr.J.K.Jayaseelan, learned Government Advocate appearing on behalf of the respondent Nos.11 to 13.

4.The learned counsel appearing on behalf of the petitioners would submit that the instant suit is one of bare injunction. The defendant has already filed a written statement disputing the title of the plaintiff. Thereafter, the suit was not amended for any declaratory relief. The original case of the plaintiff is that the property was allotted to one Aya Thevar by way of oral partition and therefore, patta was issued in their name and therefore, the injunction was prayed.

5.The case of the defendants is that the property was never given exclusively to give Aya Thever and his brother Maya Thever also had a share in the said property and originally the property was standing in the name of their predecessor in title Paramasamy



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Thevar and only during the alteration of records in the UDR scheme, patta was wrongly mutated in the name of Aya Thevar, which is now corrected by the authorities. The said proceedings are not directly in issue in the suit. When nothing has been offered in the suit regarding the pending proceedings before the revenue authorities, the trial Court ought to have seen that the very amendment, changes the entire character of the suit and it is based on a different cause of action and as such, the trial Court ought not to have permitted the amendment. In any event, the relief prayed for in the civil suit cannot also be granted in the absence of a declaratory relief in respect of the title. If they had to sue for a declaration, the same would be barred by limitation as of today. It is his further contention that the trial Court did not also give any reasons and did not also consider the aspect of the bar of suit under Section 14 of the Patta Passbook Act. For all the above reasons, he would pray that the Civil Revision petition should be allowed.



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6.Per contra, the learned counsel appearing on behalf of the respondent would submit that on a perusal of the order of the Tahsildar, dated 27.07.2018 and the order of the District Revenue Officer, dated 18.01.2021 in the appeal, it can be seen that the authorities have gone into the title of the parties and have decided them. As a matter of fact, when the DRO had opined that the parties could approach the civil Court if they are aggrieved, he ought to have said that without effecting the changes made in patta. When title is being disputed between the legal heirs of Aya Thevar and the legal heirs of Maya Thevar, it is not for the revenue authorities to have decided the said title and ought to have left the question to the Civil Court. When the authorities themselves have opined that the matter has to be decided in the civil Court and when the matter of title is being disputed and is writ large before the civil Court, when pending the civil suit the patta was changed in the name of Paramasamy Thever, it cannot be said that it is an entry which is made under the Patta Passbook Act and if the authorities exceed their jurisdiction or grant any relief other than



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making an entry in Patta Passbook, then in that case, the suit is not barred under section 14 of the Patta Passbook Act.

7. In support of his submissions, the learned counsel would rely upon the judgment of a Co-ordinate Bench of this Court in ***K.Ravi and others-Vs-P.Sudarshan and others*** reported in **2017 SCC Online Madras 11226**, more specifically to paragraph 8, whereby this Court (speaking through honorable Mr. Justice R.SUBRAMANIAN) has held that when the suit is about the question of title, then the bar under section 14 of the Act, should be limited only to the suits, in which, the proceedings taken under the Act or challenged and whenever the Court is empowered to go into the question of title, the bar under Section 14 of the Tamil Nadu Patta Passbook Act is not applicable. The said paragraph 8 is extracted here under:

“8. I am inclined to agree with the contentions of Mr.V.Raghavachari, learned counsel appearing for the respondents 1 to 5. Of course a suit simplicitor for modification or cancellation of entries made under the Act is



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barred under [Section 14](#) of the Tamil Nadu Patta Pass Book Act. But, the present suit is not only for the said relief. It is a suit for recovery of possession, which encompasses in itself a determination of the question of title. [Section 14](#) specifically enables a person, whose request grant of patta has been rejected by the authorities, to file a suit for declaration of the title and any such declaration made by a Civil Court is made binding on the Authorities acting under the [Tamil Nadu Patta Pass Book Act](#). Therefore, the question of determination of title and the jurisdiction to decide title is always within the powers of the Civil Court and the said powers have not been interfered with or stripped by the provisions of the [Tamil Nadu Patta Pass Book Act](#). Therefore, in my considered opinion, the bar enacted under [Section 14](#) of the Act should be limited to suits in which the proceeding taken under the Act are Challenged and not all clauses of suits where a declaratory relief is sought for or a relief of recovery of possession is sought for, where the Court is empowered to go into the question of title also. After all it is settled law that the entries in the Revenue records cannot be treated as evidence of title. May be, they serve as proof of certain facts and the conclusiveness attached to certain entries will always be subject to the decision of the Civil Court on the question of title. Hence, I do not think the plaint in the present suit could be rejected on the ground that it is barred under the provisions of [Section 14](#) of the Tamil Nadu Patta Pass Book



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Act.”

8.The learned counsel would further rely upon the judgment of this Court in ***G.Ramanujam-Vs-State of Tamil Nadu***, reported in ***2021 (2) CTC 143***, more specifically relying upon paragraph 18.2, for the proposition that when the official ignores the procedure prescribed for the exercise of his authority or deviates from it to the prejudice of the party concerned, then, so long as the power is not exercised within the statutory limit, then the bar for the Civil Court to entertain a prayer would not apply, the said Paragraph 18.2 is extracted hereunder:

“18.2 Where an official ignores the procedure prescribed for the exercise of his authority, or deviates from it to the prejudice of the party concerned, then it cannot be said that he has acted within the scope of his statutory power. Accordingly, an official, who blindfolds himself to the procedure prescribed for the exercise of his power, and roams freely outside the statute for exercising it, is not later permitted to lean on the very statute which he has chosen to ignore for defending his extra statutory actions. The statute protects he who serves it, and saves only those acts



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which are done in obedience to it. It now follows that a civil court's jurisdiction to subject an extra statutory actions of an authority to a forensic scrutiny is not barred, even where there is a statutory provision ousting its jurisdiction. And, in all cases where the principles of natural justice are violated, affecting the vested rights of individuals, then the civil court will have jurisdiction as the action complained of has produced civil consequences. (See [Dhulabhai Vs State of Madhya Pradesh](#) [AIR 1968 SC 78], [Rajasthan State Transport Corporation Vs Bal Mukund Bairwa](#) [(2009)4 SCC 299] and [State of Tamil Nadu Vs Ramalinga Swamigal Madam](#) [(1985) 4 SCC 10]."

9.The learned counsel would also rely upon the judgment of a Co-ordinate Single Bench, dated 03.08.2018 in CRP(MD)No.220 of 2017(N.Sankara Iyer and others-Vs-M.Sankarasugumar and others) in this regard.

10.I have considered the submissions made on either side and perused the material records of the case.



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11.The core lis between the original plaintiff and the defendants is that originally, the property stood in the name of Parmasamy Thevar. Thereafter, whether the suit property in question went exclusively to the share of Aya Thevar pursuant to the partition or whether the other legal heirs of the said Parmasamy Thevar, including Maya Thevar and his descendants also have a share in the property. It is one thing to contend that whether in the present suit for bare injunction, whether the title can be gone into or whether the declaratory relief is necessary or not, is for the trial Court to decide based on the arguments of the parties. The relief now sought to be introduced by way of the amendment is to declare the order of the RDO as null and void and also including a paragraph in IX(aa) with reference to the averments relating to the revenue proceedings. It is one thing whether such a relief can be granted by the civil Court or whether the bar under Section 14 of the Patta Pass Book Act would apply can also be gone into while answering the main suit. As far as the amendments are concerned, on a careful perusal of the order passed by both the Tahsildar and



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also the DRO, and the averments made in the plaint and the written statement, it can be seen that the title is claimed in the civil suit based on the Patta proceedings. In the Patta proceedings, the authorities have decided that the matter should be decided by the civil Court.

12.In that view of the matter, when both the proceedings are intrinsically connected with each other, I am of the view that when the trial Court has allowed the amendments subject to all the contentions of the defendants on the merits as to the truth or otherwise of the averments made in the amendment application and the entitlement of the plaintiff with reference to the amendment, the amendment, which is allowed by the trial Court, need not be interfered with.

13.In view thereof, finding no compelling reasons to interfere with the discretion exercised by the trial Court in allowing the amendment and leaving open the contention of the



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defendants with reference to the factual particulars as well as the entitlement of the relief, the Civil Revision Petitions are disposed of. It is needless to mention that the defendants will be entitled to file an additional written statement, and if they choose to do so, they shall file the same within two weeks from the date of receipt of copy of this order raising all their contentions. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.07.2024

NCC:Yes/No
To
The Additional District Munsif Court,
Thirumangalam.



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D.BHARATHA CHAKRAVARTHY, J.

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