



C.R.P.PD(MD)No.432 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.PD(MD).No.432 of 2020

&

C.M.P(MD).No.2560 of 2020

1.P.Lakshmanan

2.S.Annamalai

3.Dr.M.Thanneermalai

4.MP.Ramanathan Chettiar

... Petitioners

Vs.

1.R.Vellaichamy

2.M.Ramachandran (died)

3.The State of Tamilnadu
represented by the District Collector
Sivagangai District
Collectorate Complex
Sivagangai



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4.The District Revenue Officer
Sivagangai District
Collectorate Complex
Sivagangai

5.Theivanai

6.R.Karupaiyah
(respondents 5 and 6 are
brought on record as LR's of the
deceased 2nd respondent vide
court order dated 24.04.2023
made in CMP(MD).No2819 of 2022
in CRP(MD)No.432 of 2020)

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to strike off the plaint in O.S.No.255 of 2019 on the file of the Sub-Court, Devakottai.

For Petitioners : Mr.S.Ramesh

For Respondents : Mr.D.Sasikumar, AGP for R3 and 4

Mr.D.Malaichamy for R1,5 and 6

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India to strike off the plaint in O.S.NO.255 of 2019 on the file of Sub-Court, Devakottai.



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2. This court initially entertained a doubt about the maintainability of the Civil Revision Petition under Article 227 of the Constitution of India for the relief as noted here in above and required the learned counsel for the petitioner to argue the matter and to satisfy this court about the maintainability of the civil revision petition at the first instance.

3. Learned counsel for the petitioner placed reliance on various decisions as under:

(i) ***Surya Dev Rai Vs. Ram Chander Raj and Ors***, reported in (2003) 6 SCC 675;

(ii) ***K.K.Modi Vs. K.N.Modi and Ors***, reported in AIR 1988 SC 1297;

(iii) ***Dindigul Pettai Sathangudi Shatriya Nadar Uravinmurai, through its Secretary and another Vs. Selvaraj Sundar and anr***, reported in 2009 (2) CTC 57;

(iv) ***Southern and Rajamani Transport Pvt Ltd, rep by its Director Vs. R.Srinivasan and Ors***, reported in 2010 (4) CTC 690;



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Learned counsel further contended that this court has entertained similar Civil Revision Petitions under Article 227 of the Constitution of India on earlier occasions. None of the decisions relied upon by the learned counsel dealt with the aspect as to whether Such a Civil Revision Petition can be maintained to strike off the plaint was considered. Though, this court intended to examine the matter in detail as to the maintainability of the Civil Revision Petition under Article 227 of the Constitution of India and the relief as sought for in the present Civil Revision Petition, after hearing the learned counsel for the petitioner on merits does not deem it necessary to go into that aspect for the present.

4. On the merits of the case, it is the case of the petitioner that they are the trustees of Desikanathaswami Temple and plaintiffs in O.S.NO.255 of 2019, claiming to be the successor in interest of one S. Muthu Servai filed the said suit questioning the summons issued by the second respondent bearing No.C3/14834/19 dated 02.09.2019 and for grant of permanent injunction restraining the defendants 1 to 6 not to interfere with the peaceful possession and enjoyment of the suit property. The said proceedings before the second



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respondent were initiated at the instance of the above said temple. The said temple is not made a party to the suit in question. However, the defendants 2 to 5 who claim to be the trustees of the said temple are made parties. The main ground on which the present Civil Revision Petition is filed is that the ancestor of the plaintiffs/respondents on an earlier occasion made a claim for grant of patta in respect of the very same land which are the subject matter of the present suit and the same was negatived by all the authorities including this Court and in the said orders passed in that litigation, certain observations are made about the title of the temple referred to above. Basing upon such observation, it is now sought to be contended that the issue is already decided between the parties and therefore the respondents/plaintiffs are not entitled to initiate the present suit and thus contended that the suit is vexatious and frivolous in nature. It is also further contended that under section 14 of the Patta Pass Book Act, 1983, no suit shall lie against the government or any officer of the Government in respect of the claim to have an entry made in any Patta Pass Book i.e maintained under this Act or to have any such entry omitted or amended.



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5. This Court has thoroughly gone through the orders passed in revenue appeal NO.88/ 1975 dated 30.07.1976 and the order passed in STA.No.4 of 1986 by this Court. Both the said orders are passed at the instance of S. Muthu Servai and several others claiming patta in respect of certain extents of land. Though the above referred temple is a party to the said proceedings, there is no order that is passed granting patta in favour of the temple in the said orders. It is only the claim of the petitioners/appellants therein was negated. No doubt, certain observations were made in the said orders in favour of the temple.

6. Now the above referred temple is stated to have made a claim before the Tahsildar concerned for grant of Patta in respect of certain lands and on rejection of the claim of the said temple, the said temple claimed to have filed an appeal before the second respondent. It is against the summons that were issued in the said appeal before the second defendant, the present suit is filed seeking a permanent injunction against the defendants therein.

7. From the above, it is noticed that prima facie there is no conclusive



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decision by any Competent Court, deciding the rival claims between the parties. In the absence of any such conclusive decisions between the parties, treating the suit instituted by the respondent/plaintiffs as vexatious or frivolous etc., cannot be accepted and that is not a matter for examination by this court in exercise of power under Article 227 of the Constitution of India. Even if there is any such decision, at the most the same may amount to be a bar under section 11 of C.P.C. If that be the case, the remedies are available to the petitioner under Or.7 R.11 of C.P.C. Then coming to the objection by placing reliance on Section 14 of the Patta Pass Book Act is concerned, the same may be a legal bar for institution of a suit. Even in such case also, the remedy under Or.7 R.11 of C.P.C is very much available to the petitioners.

8. Hence, the petitioners instead of availing the remedy under Or.7 R. 11 before the learned Trial court approached this Court by filing the present Civil Revision Petition. This court does not find any ground warranting exercise of power of this Court under Article 227 of the Constitution of India. Further, this Court also does not see any error or illegality in the action of the learned Trial court in numbering the suit as such. In the circumstances, the



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Civil Revision Petition is dismissed leaving it open to the petitioners to avail the remedies otherwise available under law. In case if any such application is filed, the same shall be considered by the learned Trial Court on its own merits without being influenced by any of the observation made in this order. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2024.

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The Sub Judge, Devakottai



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MUMMINENI SUDHEER KUMAR, J.

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