



C.R.P.(MD)No.627 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P(MD)No.627 of 2024

1.Malaiyalam
2.Seenivasan
3.Vellaichammy
4.Ganesan
5.Karthi Eswari
6.Chandra
7.Gandhimathi

: Petitioners/Plaintiffs

Vs.

1.Veeranan
2.Cinnakkathi
3.The District Collector,
Madurai District,
Madurai.
4.The Revenue Divisional Officer,
Located Narasingampatti,
Melur Taluk,
Madurai District.
5.The Thasildar (East),
Thasildar Office,
Othakadai,
Located at Narasingampatti,
Madurai.

: Respondents/Defendants

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to direct the District Munsif Court, Melur to take the plaint on the file in OS.SR No.377 of 2024 filed by the petitioners/plaintiffs and set aside the order of return, dated 24.01.2024 signed on 29.01.2024.



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For Petitioners : Mr.S.A.Ajmal Khan

For R3 to R5 : Mr.J.Ashok
Additional Government Pleader

O R D E R

This civil revision petition has been filed seeking for direction to the District Munsif Court, Melur to take the plaint on the file in OS.SR No.377 of 2024 filed by the petitioners/plaintiffs and set aside the order of return, dated 24.01.2024 signed on 29.01.2024.

2.The facts in brief:-

The petitioners filed the plaint before the District Munsif Court, Melur with the following averments:-

The plaintiffs and the defendants 1 and 2 are close relatives and brothers and sisters. Their parents are one Kottaniveeranan and Alagi. Kattaniveeran had two wives. The first wife's children filed a suit in OS No.156 of 1966 against Veeranan for partition in respect of 6th item of the property. Later, they compromised after passing the final decree.

3.They also set out the sources of their title in the plaint. The defendants 1 and 2 have no right over the



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properties. They are not related to the plaintiffs also.

They had properties on the northern and eastern side. Sub division proceedings were also initiated by them. They also filed WP(MD)No.1068 of 2022 and that was ordered with some directions. But that was not complied by the defendants. The Revenue Authorities colluded with the defendants 1 and 2 and created fake sub-divisions. So the official respondents are bound to take out the measure of the entire 1 Acre and 7 cents and and issue patta for 1 Acre and 7 cents in favour of the plaintiffs and for consequential injunction.

4.That plaint is periodically came to be returned by the trial court and finally, on 24/01/2004, it was returned with the following orders:-

"This suit has been filed for seeking the relief of mandatory injunction against the revenue officials directing them to measure and fix the suit property, thereby subdivide it and issue joint patta in the name of the plaintiffs."



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This court has already made return this plaint for return that u/s.14 of Patta Passbook act, this court has no jurisdiction to entertain the relief sought under this plaint.

Now, this plaint has been re-submitted by citing judgments of Hon'ble High Court of Madras in 1995-1-MLJ-426, 2011-5-CTC-241. Wherein it has been observed as the civil court has to adjudicate the question as to whether the person claiming patta is the title holder of the land. Therefore, if title of the subject matter is disputed, then the plaintiff can very well approach this civil court to declare his title and consequently direction can be issued to the revenue officials to issue patta based on the title. In the present, the averments does not show the dispute relating to title of the suit property. Hence mere securing relief of mandatory injunction to direct the revenue officials to issue joint patta to the



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plaintiffs does not comes under the jurisdiction of this court in view of S. 14 of patta passbook act. Hence, returned."

5. Against which, this civil revision petition is preferred.

6. The learned counsel appearing for the petitioners would submit that the maintainability of the suit has taken out by the trial court on the administrative side and concluded that the plaint is not maintainable on the ground of jurisdiction in view of section 14 of the Patta Passbook Act and again returned the same, which according to the petitioners is *per se* illegal.

7. He would also refer to the judgment of this court reported in ***Selvaraj Vs. Koodankulam Nuuclear Power Plant India Limited [2021 (4) CTC 539]***.

8. This court is of the considered view that the plaint ought not to have been returned on the maintainability issue. If the trial court wants the matter to be heard on the question of maintainability, it ought to have been taken the same on the judicial side.



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But without numbering the plaint, deciding the matter on the judicial side, returned the same is not proper. A Detailed discussion has been made in the above said matter.

9. When we look into the above said observation made by the trial court, while returning the plaint as stated above is *per se* illegal.

10. If the trial court wants any clarification the relief sought in the plaint, it ought to have been taken on the judicial side. Without taking the matter on the judicial side to decide the maintainability, return of the plaint on the administrative side is not proper.

11. So on the sole ground, the above said return order is ordered to be set aside. There shall be a direction to the trial court to admit the plaint if it is found otherwise in order. If the trial court wants any clarification over maintainability, it can be taken on the judicial side as noted above, by affording opportunity to the petitioners. For that purpose, let the original plaint be returned to the petitioners for further process after retaining the copy of the same by the Registry.



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12In the result, this civil revision petition is
allowed with the above said observation. No costs.

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Index:Yes/No
Internet:Yes/No
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To,

The District Munsif,
Melur,
Madurai District.



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G.ILANGO VAN, J

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