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CRP.No.2179 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 05-11-2025

Pronounced on: 27.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

**CRP.No.2179 of 2016
and CMP.No.11359 of 2016**

Kandasamy

Petitioner

vs

1. Kalyanasundaram (died)

2. C.Duraisamy

3. The Sub Collector,
Collector Office, Pollachi.

4. District Collector,
District Collector Office Compound,
Coimbatore 641 018.

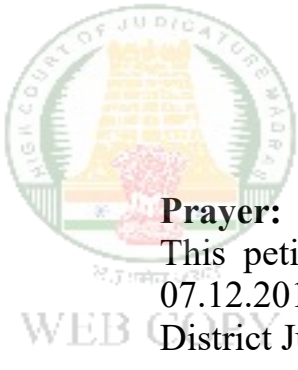
5. Thulsimani

6. Maheswari

7. Poornimadevi

Respondents

[Respondents 5 to 7 are brought on record as
LRs of the deceased first respondent vide
order of this Court dated 23.08.2023 in
CMP.Nos.18114 and 18123 and
18124 of 2023 in CRP.Nos.2179 of 2016]

**Prayer:**

This petition has been filed to set aside the fair and decreetal orders dated 07.12.2015 in I.A.No.88 of 2015 in O.S.No.181 of 2008 on the file of Principal District Judge's Court Pollachi.

For Appellant(s): Mr.C.R.Prasanan

For Respondent(s):

R1 – died
Mr.R.Vigneswaran, G.A., for R3 and R4
Mr.C.S.Saravanan, for R2
Mr.V.P.Sengothavel,
for M/s.Indu Priya, for R5 to R7

ORDER

The revision petitioner herein, who is the plaintiff in the suit, filed a petition for amendment of plaint under Order VI Rule 17 in I.A.No.88 of 2015 in O.S.No.181 of 2008 on the file of the Principal District Munsif Court Pollachi and the same was dismissed by the Trial Court by order dated 07.12.2015. Challenging the same, the present Civil Revision Petition has been filed.

2. The Revision Petitioner filed an application before the Trial Court alleging that he is the plaintiff in the main suit and he filed the main suit for the relief of permanent injunction. The official respondents 3 and 4 in their written statement agreed to obey the order of this Court. While so, the respondents 3



and 4 transferred name in the revenue records and thereby it is against the undertaking made by them. However, the petitioner/plaintiff already filed a suit for specific performance of contract and the same was decreed in favour of the plaintiff. Pending suit, the revenue records were mutated. Therefore, he filed the application to amend the plaint.

3. The respondents vehemently opposed the same and filed counter stating that the petition is not maintainable. They submitted that the respondents 3 and 4 already passed order transferring the name in the property on 25.03.2008 and there is no deviation in the undertaking given by them. He further submitted that the application has been filed belatedly. Therefore, the petition is liable to be dismissed.

4. The learned counsel appearing for the applicant would submit that the applicant filed the application to amend the plaint and the petitioner already obtained decree of specific performance of contract in OS.No.67 of 2007 and the same was confirmed in the first appeal. As against which, second appeals are pending. The Trial Court dismissed the application by holding that the revision filed by the applicant had already been dismissed by the District Revenue Officer. The proposed amendment is seeking mandatory injunction directing the respondents 3 and 4 to delete the name of the second defendant in patta proceedings on the ground that he has no title and for substituting the value of



the relief by adding the payment of Court fee and such added value, was rejected. Therefore, the order passed by the Trial Court is liable to be set aside.

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5. The learned counsel appearing for the respondent would submit that the second defendant purchased the suit property through sale deed and based on the sale deed, he approached the revenue authorities and they passed order including the name of the second defendant in the patta based on the title deed. Though the petitioner obtained decree for specific performance, so far, title has not been passed in his favour as the second appeals are pending. The Trial Court has passed the order by holding that the plaintiff has not taken any steps for 6 years even after filing of the written statement. Therefore, the Trial Court passed a reasoned order and the present application is liable to be dismissed.

6. This Court heard both sides and perused the records.

7. In this case, the plaintiff has filed a suit for permanent injunction, as early as in the year 2008 and thereafter he filed I.A.No.88 of 2015 for amendment to amend the prayer of mandatory injunction by directing the defendants 3 and 4 to delete the name of the second respondent in the patta proceedings. It is an admitted fact that the second defendant purchased the property before filing of the suit and thereby defendants 3 and 4 based on the title deed in favour of the second defendant included his name in the patta. The plaintiff has filed suit for bare injunction and thereafter the defendants filed



written statement on 27.11.2008, but the plaintiff has not sought for amendment immediately and he filed application after 6 years.

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8. The limitation is also one of the issues in this case. The application was filed after a period of limitation, and the plaintiff has not given any reason for filing the amendment application after a long period. Moreover, the plaintiff relies upon the specific performance suit and the decree passed in his favour, which is now under challenge, in the second appeals. Since the sale deed has been executed in favour of the defendant, the plaintiff has no locus standi to question the title of the second defendant. As the second defendant purchased the property and title stands in his name as on the date, he is entitled to obtain patta in his favour. If any decree passed in favour of the plaintiff and after execution of sale deed, he can approach the revenue authorities for transfer of his name in the revenue records including patta. As long as the sale deed is in favour of the second defendant, and unless, any decree is passed against him in respect to the suit property, he is entitled to patta and the revenue authorities also granted patta based on the sale deed in favour of the second respondent.

9. After hearing both sides, the Trial Court dismissed the application on the ground that the defendants filed written statement on 27.11.2008. Thereafter, the case was proceeded for trial on 07.10.2014, till such time, the applicant had not taken any steps. The Trial Court further held that there was no due diligence on the side of the applicant. As per the documents, the application could be



considered only subject to the outcome of the result in the suit. Subsequently, the Revenue authorities passed an order, which was challenged in revision, and the revision was also dismissed. The Trial Court observed that the suit can be decided on the basis of the pleadings, evidence and the relief sought in the suit and found no merit in the application, therefore dismissed the application. Further, the Trial Court has correctly observed that though the written statement was filed by the defendants on 27.11.2018 and the case was posted for trial, the applicant filed an application in the year 2015 and there is no due diligence on the side of the applicant. Therefore, the belated application cannot be considered. Therefore, the Trial Court has passed a well reasoned order and there is no warrant of interference by this Court. Moreover, this Court has allowed the second appeals by setting aside the decree passed by the Trial Court in OS.No.67 of 2007 on the file of the Sub Judge, Pollachi, which was confirmed by the First Appellate Court in A.S.Nos.117 of 2011 and 7 of 2012. Therefore, the application has become infructuous and the application is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.11-2025

[2/2]

Speaking Order : Yes / No



Index
pvs

: Yes / No

CRP.No.2179 of 2016



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To

1. The Sub Collector,
Collector Office, Pollachi.

2. District Collector,
District Collector Office Compound,
Coimbatore 641 018.



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P. DHANABAL, J.

pvs

Pre-delivery order in
CRP.No.2179 of 2016

27-11-2025

[2/2]