



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.01.2025

Pronounced on : 07.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2963 of 2024

and

C.M.P.No.15845 of 2024

1.Pradeep Kumar

2.R.Nagaraj

.. Petitioners

Versus

1. Orappam Village Peoples Development Welfare Association

Rep by its

(1)C.Arjunan-President,

(ii) B.Venkatesan-Secretary,

(iii) H.Ellappan-Treasurer

2. The President

Orappam Village Panchayath, Bargur Taluk

3. The Village Administrative Officer

VAO Office, Orappam Village, Bargur Taluk

4. The Tahsildhar

Taluk, Office, Bargur Taluk,

5. The Revenue Divisional Officer

RDO Office, Bargur

6. The Sub Registrar

Sub Registrar office, Bargur



7. The District Registrar
District Registrar Office, Krishnagiri

8. The State of Tamil Nadu
Rep by its District Collector of Krishnagiri District,
Collectorate office, Krishnagiri District

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.75 of 2024 on the file of the District Munsif Court at Krishnagiri.

For Petitioners : Mr.P.H.Aravindh Pandian, Senior Counsel
for Mr.Vikram Veerasamy

For Respondents : Mr.V.Raghavachari, Senior Counsel
for Mrs.V.Srimathi for R1
Dr.S.Suriya, for R2 to R8
Additional Government Pleader

ORDER

Revision has been filed under Article 227 of the Constitution of India seeking to strike out the plaint in O.S.No.75 of 2024 filed by the plaintiff on the ground of abuse of process of law and to circumvent the order of the First Bench of this Court passed in respect of the very same relief.

2. The plaint has been filed by Orappam Village People's Development Welfare association registered on 30.10.2023. The plaint proceeded as if originally an extent of 1.22.5 hectares in S.No.303 Government poromboke



property was classified as Grama Natham and Orappam Village as per Survey Land Register in the year 1960. Subsequently, the said land was sub-divided as S.No.303/1 with an extent of 0.36.5 hectare classified as Grama Natham and S.No.303/2 with an extent of 0.02.0 hectare standing in the name of the Panchayat and S.No.303/3 with an extent of 0.84.0 hectare standing in the name of the Orappam village.

3. In S.No.303/1 90 cents were under the possession and enjoyment of the people of the Orappam village for several decades and that there was a mariyamman temple and vinayagar temple, wherein, festivals were conducted periodically.

4. The property in S.No.304/5 with an extent of 0.72.5 hectare, 1.79 acres were classified as SanthaiPettai and in the said land, the general public of the Orappam village conducted “Santhai (weekly market)” every Wednesday. The land in S.No.303/1 classified as Grama Natham and S.No.304/5 classified as SanthaiPettai were being used by the general public of Orappam village.



5. According to the plaintiff, originally, the above lands were used as a Chathiram 100 years back and the maintenance and administration of the Chathiram was handed over to one Maruthapalli Mittadarar Kalayana Sundara Banthulu and after independence it was in the public usage without any interference. After the enactment of the Land Reforms Act, the village people residing in the said village. The land in S.No.303/1 was declared as Grama Natham as per survey land register extract in the year 1960. The property in S.No.304/5 is used as a Market Place since the British rule. Further, as per Updating of Registry (UDR) scheme in the year 1984, the above property in S.No.303/1, an extent of 0.90 cents wrongly classified as Ryotwari Dry land and mutated in the name of T.Kalyanasundara Bandulu under patta No.338. The above property in S.No.304/5 an extent of 1.79 acres wrongly classified as Ryotwari dry land and mutated in the name of T.Kalyanasundara Bandulu under patta No.338. Subsequently, the above said properties were included in patta No.217 in the name of T.Kalyanasundara Bandulu along with other properties.

6. The Government acquired part of the properties in the above S.Nos.303/1 and 304/5 for the purpose of forming of National Highways



Road. S.No.303/1 has been sub-divided as S.No.303/1A extent of 0.03.55 hectare, S.No.303/1B1, extent of 0.05.56 hectare and 303/1B1, extent of 0.27.39 hectare. The above said S.No.303/1A and 303/1B1 were classified as National highway road. S.No.303/1B2 wrongly mutated in the name of defendants 1 and 2. Similarly, property in S.No.304/5 had been subdivided as S.No.304/5A extent of 0.07.50 and classified the same as National Highway road and S.No.304/5B extent of 0.650 hectare and wrongly mutated in the name of the defendants 1 and 2.

7. Further, all these years the general public of Orappam village were under the impression that the above said properties in S.No.303/1 is Grama Natham and S.No.304/5 is Sandhai Pettai and thereby they have been in possession and enjoyment of the same. The plaintiffs and the general public of Orappam village were not known about the said classification of the properties in S.No.303/1 and 304/5 and mutation of the same in the name of defendants 1 and 2. In fact, the defendants 1 and 2 have never come to the suit schedule mentioned properties and they never been in possession and enjoyment of the same. All of sudden in the month of July 2021, the defendants 1 and 2 along with help of their men, agents and servants have



joined together and thereby creating problems and troubles over the said properties by claiming false right with ulterior motives with the help of forged and fabricated documents by showing the same. The first plaintiff obtained RTI information by letter dated 06.10.2021, thereafter, only the plaintiffs came to know about the above said change of classification of Grama Natham and Santhai Pettai and mutation of the revenue records in the name of the defendants 1 and 2. In fact, the revenue officials had supported the defendants 1 and 2 committing mistakes in the revenue records over the properties. RTI applications sent by the plaintiffs have also did not give any results. Hence, this petition.

8. The above plaint is sought to be struck off on the file of District Munsif, Krishnagiri on the ground of abuse of process of law. Further, the plaintiffs essentially seeks to revisit the same issue which was already adjudicated by this Court in W.P.No.3907 of 2023. The relief sought in the suit in O.S.No.75 of 2024 on the file of the District Munsif, Krishnagiri and W.P.No.3907 of 2023 are identical, as both address the classification and possession of the A & B schedule properties and both the proceedings seeks to restrain the petitioners from using the said properties. Further, there was



suppression of the material facts in the plaint, whereas, the order passed by this Court in W.P.No.3907 of 2023 is totally suppressed in the plaint papers.

The suit in O.S.No.75 of 2024 is an attempt to circumvent the order of the First Bench of this Court in WP.No.3907 of 2023 and to re-agitate and re-litigate the issue which has already attained finality. The society has been formed only on 30.10.2023, viz., after the order of this Court dated 11.09.2023 passed in WP.No.3907 of 2023.

9. Mr.P.H.Aravindh Pandian, learned senior counsel for the revision petitioners vehemently submitted that copies obtained by the plaintiffs under the RTI Act was given to one Shanmugam to file a writ petition in WP.No.3907 of 2023. The First Bench of this Court after considering the entire issue and after going through the revenue records dismissed the writ petition. Only after the dismissal of the writ petition, the association has been registered on 30.10.2023 and the suit has been filed by different persons. Hence, according to him what they could not achieve before the First Bench of this Court they are trying to achieve by way of filing a civil suit in respect of the very same relief.



10. The plaint is nothing but replica of the pleadings made in the writ petition in W.P.No.3907 of 2023. The document used in the writ petition were in fact obtained under RTI Act. After the dismissal of the writ petition, association has been registered and the suit has been filed, which is nothing but clear case of abuse of process of law and filed only to harass the defendants for some or other oblique reasons. He also demonstrated before this Court as to the case of the plaintiffs that classification is changed only during the UDR scheme is absolutely false by relying on the revenue records. In fact, even before, 1954, subject lands classification have been shown as Ryotwari Punjai standing in the name of T.Kalyanasundara Bandulu. It is the further contention that in the land acquisition proceedings, some lands have been acquired in the area and the Government has admitted the rights of the defendants and paid the compensation. Hence, seeks for allowing this revision.

11. Whereas, Mr.V.Raghavachari, learned senior counsel for the first respondent submitted that the writ petition is not filed by the plaintiffs but by some other person. The First Bench of this Court while dismissing the writ petition in WP.No.3907 of 2023, the Court has held that if any one is



aggrieved by the grant of patta, then the aggrieved person can challenge the same in appropriate proceedings as provided under the Patta Passbook Act.

Therefore, plaintiff has rightly invoked the jurisdiction of the Civil Court and the change in classification is made only during the UDR. Prior to the UDR scheme, the land was classified as Grama Natham and SanthaiPettai and the same is under control of the villagers of Orappam. Therefore, evidences are certainly required to prove as to the manner in which the classification is made during the UDR scheme. Therefore, approaching civil court cannot be said to be abuse of process of law. It is the further contention that order of the Writ Court will not operate as res judicata, the Civil Court jurisdiction cannot be taken away in deciding the factual matrix, the cause of action for the suit and the writ petition are different. Therefore, it cannot be said that the suit is barred by principle of res judicata.

12. In support of his submissions, he placed reliance on the following judgments:

a. *K.Ponnambal and others vs. V.Thayanban and others* reported in (2012) 2 LW 193

b. *Vaish Aggarwal Panchayat vs. Inder Kumar and others* reported in (2020) 12 SCC 809



13. He vehemently submitted that only if the revenue officials are examined before the Civil Court, the truth will come out. Therefore, merely on the basis of the status report filed before the Writ Court, it cannot be concluded that entries found in the revenue records stands proved. Therefore, the plaint cannot be struck off. It is the further contention that when the suit or proceedings is pending before civil court, this Court exercise supervisory jurisdiction in routine manner. Hence, seeks for dismissal of this revision.

14. On the side of the Government, status report is filed, wherein, it is clearly stated that S.No.303/1, extent of 0.36.50, S.No.304/5, extent of 0.72.50 are classified as private patta land stands in the name of Krishnasamy Bandulu. Similarly, S.No.303/1B2, extent of 0.27.39 and S.No.304/5B, extent of 0.65.0 are classified as private patta land stands in the name of defendants. According to them, as per their records, land in question belong to the defendants.

15. Heard both sides and perused the materials placed on record.



16. At the outset, it is to be noted that the relief sought in the plaint is to declare the suit properties as Grama Natham and Sandhai Pettai, consequently direct the defendants 4 to 6 and 9 to restore the revenue records and injunction against the defendants 1 and 2.

17. The plaint proceeded as if the property in S.No.303/1 classified as Grama Natham and S.No.304/5 classified as Santhai Pettai as per survey land register extract of the year 1960. According to them, mistake is crept only while UDR scheme in the year 1984 and the property in the above survey numbers were wrongly mutated in the name of T.Kalyanasundara Bandulu. Pleading extracted in the plaint, when carefully seen, it is not nothing but replica of the pleadings made in the writ petition, W.P.No.3907 of 2023 filed by one Shanmugam, S/o.Lakshmanagounder of the Orappam Village alleging that only in the UDR scheme, the classification has been changed.

18. In the above writ petition, relief is sought to remove the encroachment made by the fourth respondent namely one of the defendant in the suit in S.No.303/1 and 304/5, Orappam Village, Bargur Taluk, Krishnagiri District. The First Bench of this Court vide order dated



11.09.2023, taking note of the fact that the land has been classified as Ryotwari Dry lands in the name of one Krishnasamy Bandhulu and the compensation amount for the above lands acquired for National Highways were paid to Periappa @ Lakshmi, w/o. Kaverigounder, whose husband purchased an extent of 0.07 acres in 303/1 vide purchase deed dated 23.09.1972 from Krishnasamy Bandhulu dismissed the writ petition by observing that if anyone is aggrieved by the grant of patta, then the aggrieved person can challenge the same in the appropriate proceedings as provided under the Patta Passbook Act. Without resorting to any revenue proceedings, now, the suit has been filed.

19. Normally, while invoking powers under Article 227 of the Constitution of India to strike out the pleadings, the High Court will be slow in exercising such power, unless abuse of process of law is apparent on the face of the proceedings. No doubt, the findings of the Writ Court strictly will not operate as res judicata, however fact remains that affidavit filed by the writ petitioner and the pleadings in the plaint indicate that only after obtaining RTI information the writ petition came to be filed. Thereafter, it appears that after dismissal of the writ petition by order of this Court dated



11.09.2023, association has been registered on 30.10.2023 only for the purpose of filing the suit. The suit is filed to declare the suit properties as Grama Natham and Sandhai Pettai, consequently direct the defendants 4 to 6 and 9 to restore the revenue records and injunction against the defendants 1 and 2.

20. It is relevant to note that similar relief is already sought by way of writ petition seeking eviction on the ground of Government property, as the writ petition is dismissed, the suit came to be filed. The very plaint proceeds that in the year 1960, the property is shown as Grama Natham and Santhai Pettai, thereafter, in the year 1984, during the UDR scheme, classification was changed in the name of the defendants 1 and 2. This Court in order to ascertain certain facts has directed the revenue authorities to produce all the relevant records and the original A-Register from the year 1954 and the same are produced before this Court. They would clearly indicate that the very allegations in the plaint that in the year 1960, the subject property in S.No.303/1 classified as Grama Natham and S.No.304/5 classified as Santhai Pettai is absolutely false as per the A-Register of the year 1954 which indicate that property in S.No.303/1 even before the UDR scheme is



classified as Ryotwari Punjai Dry. In S.No.303/1 an extent of 0.36.5 hectares stood in the name of Krishnasamy Bandulu and S.No.303/5, an extent of 0.72.5 hectares stood in the name of Krishnasamy Bandulu. Therefore, the very contention that only during the UDR scheme in the year 1984, the land has been changed to the individual name is absolutely false. Though the learned senior counsel for the first respondent argued that all the revenue records and its entries are false, same can be proved only in trial. The fact remains that oldest entry in the year 1954 is also placed before this Court, viz., FMB sketch.

21. Since in a portion of the subject property, small temples have been constructed, this Court has suggested for any settlement for which the revision petitioners agreed and stated that temples are private temples and being worshipped by villagers, they are ready to give up the area and earmark that area only to the villagers. However, the same has not been agreed by the first respondent before this Court. Be that as it may, the very issue is relating to the classification and the plaint proceeds as if the patta has been changed in the name of the defendants 1 and 2 only from the year 1984 during UDR scheme, the same is found to be false as per the original records produced



before this Court.

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22. When the land was acquired by the National Highways in the same Survey Number, award has been passed by the competent authority vide order dated 11.03.2015 taking note of the fact that land originally stood in the name of the private parties. Therefore, this Court is of the view that as the similar relief is sought before this Court, the First Bench of this Court has dismissed the writ petitioner holding that if any one is aggrieved by the grant of patta, then the aggrieved person can challenge the same in appropriate proceedings as provided under the Patta Passbook Act, now, the suit has been filed. Be that as it may, entries in the revenue records alone is relevant. 1954-1987 records produced before this Court clearly shows that the land is private land. Such view of the matter, merely, because one has right to agitate the civil right before the competent civil court that does not mean, person, particularly having no right at all has right to abuse the process of law only in order to harass the innocent persons.

23. In view of the above, this Court is of the opinion that the suit has been filed only to harass the innocent persons under the pretext of society.



The Government is the competent person to show that during the UDR scheme, land has not been classified as private land, whereas, the plaintiff association's consistent stand is that the government land has been changed as private land. The original revenue records of the government, when placed before this Court prior to the year 1984, i.e., 1954 to 1987, clinchingly establishes the fact that S.No.303/1 and 304/5 is classified as Ryotwari Punjai land and stood in the name of private individuals. Therefore, the contention of the plaintiff that classification has been wrongly changed only in the year 1984 itself has been falsified. When the Government produced all the records and records also clearly fortify the submissions of the learned senior counsel for the revision petitioners, this Court is of the view that this type of suit, that too, filed by an association after the dismissal of the writ petition, wherein, similar allegations were pressed into service is of the view that suit is nothing but clear abuse of process of law and it amounts to re-litigation.

24. In order to struck out the plaint, Order VI Rule 16 of Code of Civil Procedure would apply. Order VI Rule 16 reads as follows:

*“ 16. Striking out pleadings.—The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—
(a) which may be unnecessary, scandalous, frivolous or*



vexatious, of

(b) which may tend to prejudice, embarrass or delay the fair trail of the suit, or

(c) which is otherwise an abuse of the process of the Court”

25. It is clear that the plaint can be struck out on the ground of the abuse of process of the Court. This Court is of the view that filing of the suit before the Court is a brazen attempt by the plaintiff association to derive unjust and unfair advantage to themselves in the process. Further, by filing the suit, the plaintiff association is indirectly trying to achieve what could not be achieved before the writ court. In the said circumstances, this Court has no hesitation in concluding that the suit laid by the plaintiff is gross abuse of process of the Court and will certainly come under the category of re litigation.

26. In this regard, it is relevant to refer the judgment in **T.Arivanandam Vs. T.V.Satyapal** reported in **AIR 1977 SC 2421**, wherein the Honourable Supreme Court has held that

“Here is an audacious application by a determined engineer of fake litigations asking for special leave to appeal against an order of the High Court on an interlocutory application for injunction. The sharp practice or legal legerdemain of the petitioner, who is the son of the 2nd



respondent, stultifies the court process and makes decrees with judicial seals brutum fulmen. The long arm of the law must throttle such, litigative caricatures if the confidence and credibility of the community in the judicature is to survive.

27. In the judgment in **K.K.Modi Vs. K.N.Modi reported in 1998-3-SCC-573**, the Honourable Supreme Court has held as follows :

“One of the examples cited as an abuse of the process of the Court is re litigation. It is an abuse of the process of the Court and contrary to justice and public policy for a party to re litigate the same issue which has already been tried and decided earlier against him. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of the court. A proceeding being filed for collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the Court.”

28. Accordingly, this revision stands allowed and the plaint filed in O.S.No.75 of 2024 on the file of the District Munsif Court at Krishnagiri is hereby struck off. No costs. Consequently, connected miscellaneous petition stands closed.

07.02.2025

dhk

Internet : Yes/No

Index : Yes/No

Neutral Citation : Yes/No



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To

1. The District Munsif
District Munsif Court, Krishnagiri
2. The Village Administrative Officer
VAO Office, Orappam Village, Bargur Taluk
3. The Tahsildhar
Taluk, Office, Bargur Taluk,
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7. The District Collector
Collectorate office, Krishnagiri District



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20

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C.R.P.No.2963 of 2024

07.02.2025