

**IN THE COURT OF THE DISTRICT MUNSIF, ARNI, T.V.MALAI DISTRICT
PRESENT; Thiru R.Pachiyappan,B.A.,B.L.,
District Munsif, Arni.
Friday the 27th day of February 2015.**

ORIGINAL SUIT NO: 180/2009

- 1) M.Chellan,
- 2) M.Subramani,
- 3) M.Sundaram,
- 4) Gangammal,
- 5) Devi,
- 6) Devendiran,
- 7) Jayabal,
- 8) Saroja Ammal.

...Plaintiffs.

/VS/

- 1) Munusamy (died)
- 2) Salammal,
- 3) Subramani,
- 4) Sankar,
- 5) Siva,
- 6) The Sub Registrar, Kannamangalam,
- 7) The District Registrar, Cheyyar,
- 8) The Village Administrative Officer, Vannangulam Village,
- 9) The Tahsildar, Arni,
- 10)The Collector, Tiruvannamalai.

...Defendants.

The Suit is coming for final hearing before me on the 17.02.2015 in the presence of Thiru.A.Dhasthageer, Advocate for the Plaintiffs and of Thiru.K.Narayanan, Advocate for the defendants 1 to 5, and of Thiru.T.Saravanan, Advocate for the defendants 6 to 10 and after hearing both side submissions and upon perusal of relevant records of this case and having stood over for considerations in this court till this day this court delivered the following.

JUDGEMENT

This is a suit filed by the plaintiffs for the relief of declaration of title over the suit property and for permanent injunction and cost.

2) The compendious and concise facts of the plaint are as follows:

The plaintiffs submits that the suit properties were the ancestral properties of one Kollukathan. After the death of Kollukathan which took place some 60 years ago, his three sons namely Velan, Murugan, Ponnusamy inherited the same. In an oral partition effected immediately among them the 'A' schedule properties fell to the share of Velan the item numbers 1 and 2 of suit 'B' schedule properties. Fell to the share of Murugan and the item No.3 and 4 of the suit B schedule properties fell to the share of Ponnusamy. All the three brothers enjoyed the properties fell to their respective shares exclusively till their death. On the death of Velan his son Perumal inherited the suit A schedule properties. Since the said Perumal died intestate in or about the year 1996 his wife the 4th plaintiff daughter 5th plaintiff and the son 6th plaintiff inherited the suit 'A' schedule properties. Now the plaintiff's are 4 to 6 are the absolute owners of 'A' schedule properties. Since the name of 5th plaintiff's husband the 7th plaintiff's herein included in the revenue records some how he is also added has a party to the suit for the sake up completeness allowed. On the intestate death of Murugan which took place in the year 1974 the item number 1 and 2 of suit B schedule properties were inherited by his three sons namely plaintiff's 1,2,3, herein. The other brothers Ponnusamy along with his son Balan add sold the properties belonged to him

namely item number 3 and 4 of the suit B schedule properties to one Ponnammal under a registered sale deed dated 14.02.1983. The purchaser Ponnammal was the wife of Murugan and the mother of the plaintiff's 1 to 3 herein. Hence on the death of said Ponnammal which took place in the year 1988 the same was inherited by the plaintiffs 1 to 3. Thus the plaintiffs 1 to 3 are the absolute owner of the entire extent of the suit B schedule properties. They alone are in exclusive possession and enjoyment of the same till today without any let or hindrance. Likewise the plaintiff's 4 to 6 are in exclusive possession and enjoyment of the A schedule properties with out any let or hindrance. The defendant's 1 to 5 are own lands adjacent to the suit properties for the past 8 months they false with claim ownership over the suit properties. Further the 1st defendant lodged a caveat number 215/2008 against the plaintiff 1 and 2 herein before this court. Hence the plaintiff's also filed a caveat against the defendants 1 to 5. Further the plaintiff submits there in the month of April they came to know that the defendants 1 to 5 have created some false document among themselves with an intention to create cloud in the titler of the suit properties. Hence the plaintiff's churched for such documents and applied for the registration copy of the same. Then they obtained the registration copy of a settlement deed executed by the 1st defendant infavour of the 2nd defendant on 20.02.2009. As the 1st defendant himself had no semblance of right over the suit properties he can not transfer any right over the some infavour of his wife the 2nd defendant herein. Hence the same his a sham and nominal document which is invalid under law. The lawful title and right of the plaintiffs over the same his not affected in

anyway by that document. As the plaintiff's are not the parties to the document they ignore the same. On 31.05.2009 the defendant 1 to 5 joining together came to the suit properties and attempted to trespass in to the lands. The plaintiffs prevented their attempt with the help of neighboring land owners and drove them away. However the plaintiff are afraid that the defendant's 1 to 5 may attempt against to interfere in their possession of their suit properties. Hence the plaintiffs are filing the suit for declaration of title of the plaintiffs 1 to 3 over the B schedule properties and for consequential injunction and for declaration of title of the plaintiff's 4 to 6 over the suit A schedule properties and for consequential injunction. The plaintiff's came to know that the defendant 1 to 5 are attempting for the past one week to execute some more document of alienation with regard to the suit property infavour of some 3rd parties. In order to cost trouble to the plaintiffs. Hence a permanent injunction his also sh-ought against them from executing any document of alienation with regard to the suit properties and the registering authorities namely defendants 6 and 7 also made a formal parties to the suit for effective adjudication. Further the plaintiff's came to know that the defendant's 1 to 5 are trying to get patta in the name of the 2nd defendant on the basis of shame and nominal settlement deed. Hence the defendant's 7 to 10 added as a parties not to grant patta infavour of the 2nd defendant or anybody.

The plaintiffs submit that they are filing herewith the 'A' Register extract for suit properties, as stood in the year 1961, original patta books of the suit properties standing in the names of Velan, Murugan and Ponnusamy,

the original sale deed dated 14.02.1983 executed by Ponnusamy and his son Balan in favour of Ponnammal, the patta extracts standing in the names of the plaintiffs, the receipts for kist paid by the plaintiffs, the adangal extract for the suit properties issued by the Village Administrative Officer, the served copy of petition in Caveat O.P.No.215/2008 and the registration copy of the settlement deed dated 20.02.2009 executed by 1st defendant in favour of 2nd defendant. All those documents may be treated as part of this plaint.

The plaintiffs submits that as found in the 1961 'A' Register Extract, in the patta books and in the sale deed dated 14.02.1983, the Item No.4 of the suit 'B' Schedule properties originally belonged to Ponnusamy and later sold by him and his son to Ponnammal, the mother of the plaintiffs 1 to 3. Hence, it belongs to the Plaintiffs 1 to 3. But, during the computerization of revenue records, it is wrongly shown in the names of the plaintiffs 4 to 6. In the same way, the Item No.2 of suit 'A' schedule properties belonged to Velan, as found in the 'A' Register extract and in the patta book. But, at the time of computerization, it is wrongly shown in the revenue records in the name of the plaintiffs 1 to 3. However, there is no dispute among the plaintiffs with regard to this error found in the revenue records. The plaintiffs 1 to 3 are in enjoyment of suit 'B' schedule properties and the plaintiffs 4 to 6 are in enjoyment of suit of 'A' schedule properties. All the plaintiffs together have already made an application with the authorities to get a right revenue records. It is not a dispute much less the one involved in this suit. During pendency of the suit the 1st defendant was died on 03.05.2010. Since he had executed a settlement deed infavour of his wife the 2nd defendant who his

already on record, she alone is the legal heirs of 1st defendant. Infact the 1st defendant himself had no kind of right what so ever over the suit properties at any point of. Hence on his that he had not left any right to be sued surviving. The settlement deed executed infavour of the 2nd defendant by the 1st defendant are not conveyed any right over the suit properties in her favour. The 8th plaintiff is the sister of the plaintiffs 1 to 3 she had been given in marriage in the year 1976 she was given in marriage by her brothers after death of their father Murugan by spending generously and by giving jewels. Hence the 8th plaintiffs had given up all her rights in the properties of her father Murugan infavour of the plaintiffs 1 to 3 at the time of her marriage. As she has no right in the properties she was not made a party to the suit. But since the defendants 1 to 5 took the plea of non joinder of necessary party, as on abundant caution to avoid any technical defect 8th plaintiff is added has a party to be suit.

3)The compendious and concise facts of the written statement which filed by the second defendant and adopted by defendants 1 and 3 to 5 :

The suit is false, vexatious, unsustainable, untenable either in law or on facts. The defendants denies that the Kollukathan was died 60 years ago and the suit properties belonged to Kollukathan ancestrally and after demise of Kollukathan the suit properties devolved to his sons namely Murugan, Velan, Ponnusamy and there was a oral partition in which 'A' schedule allotted to Velan Item No.1 & 2 of 'B' schedule allotted to Murugan and Item No.3 and 4 of allotted to Ponnusamy and they were enjoying. The plaintiffs did not submit date of oral partition and date of death of the Murugan,

Velan, Ponnusamy. Actually the Ponnusamy was died 25 years ago, Murugan and Velan was died earlier to him. The deceased Murugan have a daughter namely Saroja. Hence the Saroja was not impleaded in the suit hence the suit liability the dismissed of nonjoinder of necessary parties. The defendants denied that after demise of the Perumal his properties inherited by the plaintiffs 4 and 5 since the name of the 7th plaintiff took place in the patta he was added as a party likewise after demise of the Murugan the plaintiffs 1 to 3 inherited the Item no. 1 and 2 of B schedule property. Similarly the Ponnusamy executed a sale deed infavour of Ponnammal on 14.02.1983. After demise of the Ponnammal her property inherited by the plaintiffs 1 to 3. And the Sale infavour of Ponnammal is not real the Ponnusamy have no salable right the sale created with an intention to disappoint this defendants. The sale would not affect or bind the right of the defendants. It is true that there are lands belonged to the defendants and exchanging of Caveat Notice. However claiming false right over the suit property is denied. It is untrue that the plaintiffs and their predecessors are enjoying the suit property without any let and hindrance. The 2nd defendant his the wife of 1st defendant the defendants 3 to 5 are their sons. The father in law of the defendant is Bothan rightly not Bothan @ Chinnappan. The son of Bothan namely Subban One Muniyammal his the wife of Bothan and the father name of the Muniyammal is Muniyan. The brother of Muniyan namely Arumugham. Father name of Muniyan Arumugham namely Kishtan. The Arumugham released his right over the property to Muniyan and he gone abroad 50 years ago. The Muniyan's family settled the suit village 75 years

ago from the Soraiyur village. The Muniyan have one another daughter and two sons except Muniyammal. They were settled at Bangalore. The Muniyan made a family arrangement of inrespect of his properties to his daughter namely Muniyammal. Thus the Muniyammal got the properties and enjoyed peacefully the Muniyammal was died 18 years ago and Bothan was died 10 years ago. Hence the suit properties are belonged to the 1st defendant's mother's properties. After demise of Muniyammal the suit properties inherited by the 1st defendant. In the lifetime of Muniyammal made a family arrangement inrespect of suit properties infavour of Munusamy the 1st defendant herein only son of the Muniyammal. Then 1st defendant have two sisters both were died issue less. The 1st defendant went to Bangalore of Coolie work as earlier to his marriage life. Thus the marriage of the 1st defendant with the 2nd defendant took place 38 years ago and defendants 1 and 2 lived Bangalore when the defendants 3 to 5 were born due to old age the defendants unable to defendants 1 and 2 unable to continue their coolie work. Hence they shift their family to suit village. The plaintiffs have no semblance of right over the suit properties taking advantage of the absence of the defendants in this suit village the plaintiffs claimed false right over the suit property. The suit properties originally belonged to defendants the 1st defendant executed a settlement deed inrespect of suit properties infavour of the 2nd defendant and delivered the possession also the plaintiff did not have right to challenge the settlement deed the 'A' register and Kist receipt were created the documents would not bind the defendant . The 1st plaintiff prepared a false application before the District Collector to Measure

the 3rd item of "B" schedule property by putting false name of his father. The 'A' register comprised namely Muniyan and Arumugham who are the father and Uncle name of the Muniyammal respectively. Similarly the Ponnusamy who his not the brother Velan and Murugan. The grandfather of the 1st defendant Kishtan purchased a part of suit property on 22.04.1946 from One Venkatta reddy. Similiarly Munusamy son of Muniyan purchased another suit property on 19.11.1948 from Muniyan S/o. Chinnappaiyan and Muniyan Son of Kishtan purchased remaining portion of suit properties from Krishna reddy on 22.04.1946 it clearly discloses that the entire suit properties belonged to the mother of the 1st defendant. The father name of the Ponnusamy is not Kollukathan as per 'A' register. Actually Ponnusamy son of Kanji purchased some properties from Krishna reddy on 22.04.1946. The plaintiffs taking advantage of the absence of the defendants created false records over the suit properties and claimed falsely. Actually the defendant and their predecessors are in the possession in the suit properties. There is no cause of auction in this suit. Suit is liable to be dismissed.

3) The compendious and concise facts of the written statement which filed by the 9th defendant and adopted by defendants 6 to 8 and 10 :

The suit is unsustainable, not maintainable either in law on or facts. As per the revenue records Survey number 293/5, extent 0.07.5 hectare survey number 293/6 extent 0.07.5 hectare survey number 293/9 extent 0.09.5 hectare and survey number 293/10 extent 0.07.0 hectare stands in the

name of Chellan herein 1st plaintiff in patta number 507 and the property survey number 293/7 extent 0.09.5 and survey 293/11 extent 0.07.5 stands in the name of Gangammal, Devi, Devindran in patta number 730 and the properties survey number 293/8 extent 0.20.0 and survey number 293/12 extent 0.21.5 stands in the name of the Munusamy son of Bothan in patta number 803. The Munusamy created a settlement deed infavour of his wife 2nd defendant without valid title over properties and the 2nd defendant applied for mutation of patta and the 1st plaintiff submitted an application not to grant patta. No steps to mutate the patta infavour of the 2nd defendant with view to settlement deed there is no cause of action hence the suit liable to be dismissed with cost.

4) This court has framed the following issues:

1. Whether the suit is bad for non joinder of necessary parties?
2. Is it true that the plaintiffs derived the title over the suit schedule properties through their ancestors?
3. Whether the plaintiffs 1 to 3 are entitled for declaration and consequential injunction over 'B' schedule suit properties as prayed for?
4. Whether the plaintiffs 4 to 6 are entitled for declaration and consequential injunction over the 'A' schedule suit properties as prayed for?
5. Whether the prayer (D) is maintainable in law in view of bar provided U/Sec.14 of Patta Pass Book Act and the deceasion reported in 2008(1) MLJ 1012?
6. To what other relief the plaintiffs are entitled for?
 - 5) To establish the case of the plaintiff he himself has examined

as PW1 and EX.A1 to Ex.A32 were marked. On the other hand to withstand the case of the plaintiff on the defendants side DW1 was examined. Ex.B1 to Ex.B8 marked.

6) **Issue No. 3 and 4:-**

The counsel for the plaintiff advanced his arguments that the suit property were the ancestral properties of one Kollukathan. After demise of said Kollukathan his pres ions namely Velan, Murugan, Ponnusamy inherited and enjoyed by effecting oral partition in which a schedule properties allotted to share of Velan Item no.1 and 2 in B schedule properties allotted to share of Murugan and the item no.3 and 4 in B schedule properties allotted to share of Ponnusamy and they enjoyed till their death. On the death of Velan his son Perumal inherited the suit A schedule properties since the said Perumal was also died instate in or about 1996 leaving his legal heirs namely herein plaintiffs 4 to 6. Hence the plaintiffs 4 to 6 are the absolute owner of the A schedule properties. The Patta in respect of A schedule properties stands in the name of Velan in patta number 347 marked as Ex.A2. Further he advanced his argument that after death of Murugan the plaintiffs 1 to 3 inherited the item number 1 and 2 of B schedule properties and enjoyed peacefully the other brother Ponnusamy alongwith son Balan had sold the properties situated in item number 3 and 4 of B schedule properties to one Ponnammal who his the mother of the plaintiffs 1 to 3 in view of Ex.A5. After demise of the Ponnammal the plaintiffs 1 to 3 are inherited the B schedule properties. Hence the plaintiff 1 to 3 are absolute owner of the B schedule property and they are in-exclusive possession and enjoyment of the

suit properties. The patta in respect of the property of ponnusamy sold out to the ponnammal stands in the name of the ponnusamy in patta number 639 marked as Ex.A4 and the property of murugan stands in the name of said murugan in patta number 640. Further he submitted that the plaintiffs are enjoying the suit property by paying kist to in view of Ex.A10 to A27. All the revenue records patta chitta adangal in respect of suit properties stands in the name of the plaintiffs. Despite the greedy defendants 1 to 5 claiming false right over the suit property without any valid documents of title the defendant 1 to 5 are the utter strangers with the suit property they no away connected with the suit property. However the defendants 1 to 5 joint together with Mala-fide intention try to trespass over the suit properties and the same is thwarted by the plaintiffs by neighboring land owners. The defendants 1 to 5 have no semblance of right or title or possession over the suit properties. Hence the suit may be decreed as prayed for.

On the otherhand the learned counsel for the defendants 1 to 5 submitted that it is absolutely false that the suit properties originally belonged to kollukathan ancestrally and after demise of kollukathan his three sons namely velan, murugan, ponnusamy inherited and there was a oral partition among the legal heirs of kollukathan said velan, murugan, ponnusamy in which A schedule properties allotted to velan and the item number 1 and 2 of B schedule properties allotted to murugan and item number 3 and 4 of B schedule properties allotted to share of ponnusamy and they enjoyed. The plaintiffs did not submit the date of oral partition as well as demise of the said velan, murugan, ponnusamy. Further he stoutly denied that the ponnusamy

and son sold the item number 3 and 4 of B schedule properties to ponnammal and the sale deed is created one for the purpose of chit-ting the defendants. Further he submitted that all the revenue records were prepared and created and fabricated with an intention to deceive this defendants. Further the submitted patta is not a title deed it is a supportive document of title. The plaintiffs have no valid title over the suit property they have no semblance of right or title over the suit property taking advantage of absence of the defendants 1 to 5 the plaintiffs created several documents over the suit properties with ill intention and claiming right over the same. Actually a portion of suit properties purchased by Muniyan on 05.08.1946 from Venkatta reddy and others. The other portion of property purchased by he said Muniyan on 22.04.1946 from krishna reddy in view of Ex.B1 and B2. Ex.B6 clearly discloses that the suit properties originally belonged to the mother of the 1st defendant namely muniyammal who his the daughter of Muniyan. Hence the suit may be dismissed with cost.

To testify the case of the plaintiffs the 1st plaintiff examined as PW1. The PW1 deposed that the suit properties originally belonged to kollukathan. After demise of kollukathan his three sons namely velan murugan, ponnusamy inherited and divided the same orally and enjoyed till their death. In such oral partition A schedule properties allotted to share of velan item number 1 and 2 of B schedule properties allotted to share of murugan and the item number 3 and 4 of B schedule properties allotted to share of ponnusamy. After demise of velan his legal heirs namely herein plaintiffs 4 to 6 has succeed is estate including A schedule properties and

enjoying peacefully. The another brother namely Ponnusamy and his son Balan executed a sale deed in respect of item number 3 and 4 of B schedule properties on 14.02.1983 in favour of ponnammal who his mother of the plaintiffs 1 to 3. The item number 1 and 2 allotted to the share of murugan who his the father of the plaintiffs 1 and 3. The murugan and ponnammal were died instate leaving behind their legal heirs herein plaintiffs 1 to 3 to succeed entire B schedule properties. Hence the A schedule properties absolutely belonged to the plaintiffs 4 to and the B schedule properties absolutely belonged to the plaintiffs 1 to 3. The defendants no way connected with the suit properties however the defendants 1 to 5 joint together with mala fide intention and created some documents over the suit properties and they tried to interfere in to the peaceful possession and enjoyment of the suit properties. Further he deposed the defendant 1 to 5 have no means of right or title or possession over the suit properties at any point of their. To strengthen the case of the plaintiff the A register extract issued by the revenue authorities in respect of suit properties which stands in the name of velan, murugan, ponnusamy and the patta stands in the name of the velan, murugan, ponnusamy marked as Ex.A2 to A4 and the sale deed executed by the ponnusamy and his son balan in favour of ponnammal dated 14.02.1983 in view of Ex.A5 and the computer patta and the A registers marked as Ex.A6 to A9 and the kist receipts marked as Ex.A10 to A27 the Adangal register marked as Ex.A30 and A31. Further the strength the case of the plaintiffs the A register regarding to the suit properties marked as Ex.A32.

On the otherhand 2nd defendant Examined as DW1. The DW1

deposed that it is untrue that the suit properties originally belonged to kollukathan and after demise of the kollukathan his sons namely velan, murugan, ponnusamy succeeded his estate including the suit properties and divided orally and enjoyed as per the oral partition further she deposed that there is no documents to show that the plaintiffs 4 and 5 are enjoying the A schedule suit properties after demise of perumal further she denied that there is no document to show that the perumal enjoyed the A schedule suit properties. Similarly there is no documents to show that the murugan and after his demised the plaintiffs 1 to 3 enjoyed item number 1 and 2 of B schedule properties and there is no documents to show that ponnusamy enjoyed the item number 3 and 4 of B schedule properties. The all the revenue records alleged to have been pertaining to the suit properties are fabricated and forged. There is a contra-way in patta that issued in favour of the PW1 relating to the property of ponnusamy similarly the patta issued infavour of the PW1 belonged to the velan. Actually the suit properties originally belonged to the mother of the 1st defendant muniyammal she inherited the properties from her father namely muniyan in the lifetime of the muniyammal she effected a family arrangement regarding to the suit properties and handed over the possession of the same to the 1st defendant. Further the DW1 deposed that the DW1 and her family was at Bangalore for coolie work taking advantage of the absence of the defendants the plaintiffs prepared some documents over the suit properties. In the meantime the DW1 and her family shifted to native village when the plaintiffs started to giving troubles from enjoyment of the suit properties. Hence the defendants file a

caveat against the plaintiffs in view of Ex.A28. Further she deposed that the suit properties purchased by the muniyan who his the son of krishnan in view of Ex.B1 and B2 for valid sale consideration. Hence the suit may be dismissed with cost.

8) Issue No.2:-

The counsel for the plaintiff advanced his arguments that the suit properties originally belonged to kollukathan after demise of the kollukathan his three sons namely velan, murugan, ponnusamy inherited the same and orally divided and enjoyed till the demise. In view of oral partition A schedule properties allotted to velan Item number 1 and 2 of B schedule properties allotted to share of murugan and item number 3 and 4 of B schedule properties allotted to share of ponnusamy. In the meantime the ponnusamy executed a sale deed in favour of ponnammal in respect item number 3 and 4 of B schedule property in view of Ex.A5. The patta and the chitta adangal all the revenue records stands in the name of the plaintiffs. The plaintiffs enjoying the same by paying kist to the government in view of Ex.A10 to A27. The A register relating to suit properties stands in the name of the sons of kollukathan namely Co-Ponnusamy Co-Murugan, Co-Velan. And the patta also stands in the name of the said velan, murugan, ponnusamy in view of Ex.A2 to A4. After demise of the murugan ponnammal B schedule properties devolved to the plaintiffs 1 to 3 after demise of velan A schedule properties devolved to plaintiffs 4 to 6. Hence the entire suit properties belonged to the plaintiffs in view of documents herein submitted the plaintiff proved their case with documents as well as ocular evidence. Hence the suit

may be decreed as prayed for.

On the otherhand the counsel for the defendants submitted that it is absolutely false that the suit properties originally belonged to kollukathan and after demise of the kollukathan the suit properties inherited by his sons namely velan, murugan, ponnusamy. The said Velan, Murugan, Ponnusamy divided the suit properties orally in such oral partition A schedule properties along with share of velan B schedule properties item number 1 and 2 allotted to share of murugan and the item number 3 and 4 of b schedule properties allotted to share of ponnusamy after demise of the velan is legal heirs namely plaintiffs herein 4 to 6 inherited A schedule properties and enjoyed the same and after demise of Murugan the plaintiffs inherited the item number 1 and 2 of B schedule properties and after demise of the ponnammal who his the mother of plaintiffs 1 to 3 inherited the item number 3 and 4 of B schedule properties., The sale deed in view of Ex.A5 his created and forged with an intention to deceive this defendants. All the revenue records submitted infavour of the plaintiffs are created and fabricated. Hence the suit may dismissed with cost.

9) **IssueNo.1:-**

The counsel for the defendants submitted that the Murugan was died leaving behind the plaintiffs 1 to 3 and his daughter namely saroja. The saroja lived at Santhavasal with her family the saroja in a necessary parties this suit according to order 1 Rule 10 of CPC with out imp-leading necessary parties the court can not adjudicate the issues involved among the parties effectively. hence the suit is bad for nonjoinder of necessary parties. Hence

the suit may dismissed with cost.

On the otherhand the counsel for the plaintiffs submitted that the defendants 1 to 5 raised their contention that the saroja to be impleaded as a party to the suit actually the saroja had given marriage in year 1976. She was given in marriage by her brothers after death of their father murugan by spending generously and by giving jewels. hence the saroja ammal given up all her rights over the properties of her father murugan infavour of the plaintiffs namely herein 1 to 3. She as no right in the properties, she was a made party to the suit. But since the defendant1 to 5 took the plea of non joinder of necessary parties as an abundant cousin to avoide any technical defect the saroja ammal added has a party to the suit in IA.19/2012 dated 28.01.2012 as 8th plaintiff in the suit.

On perusal of pleadings as well as hearing of submissions bother side it is clearly reveals that the plaintiffs instituted the suit with out impleading daughter of murugan herein 8th plaintiff earlierly. After plea of non joinder necessary parties raised by the defendants the saroja ammal impleaded as a copy to the suit for the effective adjudication of the case. Hence the plea of nonjoinder of necessary parties can not be sustainable. Hence the issue answered accordingly.

Issue No.5:-

The counsel for the plaintiff submitted that the defendants 1 to 5 are adjacent lands owners they have no means of right or title or possession over the suit properties all the revenue records stands in the name of the plaintiffs in view of Ex.A1 to A32 all the documents clearly proved the title

of the plaintiffs. Despite the 1st defendant created a settlement deed in favour of the 2nd defendant in respect of suit properties in view of Ex.A29. After creation of the 2nd defendant's try to mutate the revenue records pertaining to the suit properties in favour of her the 1st defendant have no any valid title or possession over the suit properties without title or possession the 1st defendant fabricated the Ex.A29 in favour of the 2nd defendant. Taking advantage of forged documents the 2nd defendant tried to mutate revenue records in her favour. After getting knowledge about the Ex.A29 the PW1 objected before the Tasildhar not to give any patta in favour of the 2nd defendant. Hence the court may be granted permanent injunction against the defendants 8 to 10 restraining them from anyway issuing patta in favour of the 2nd defendant are any other favour in respect of suit properties.

On the otherhand the counsel for the defendant submitted that the plaintiffs have no right or title or possession over the suit properties patta is not a title deed it is a supportive document of title without title deed the plaintiffs hanged through the patta. The suit properties originally belonged to mother of the 1st defendant namely muniyammal which inherited from her ancestral in view of Ex.B1 and B2 after demise of the muniyammal the suit properties belonged to the devolved to the 1st defendant in the lifetime of 1st defendant executed a settlement deed in favour of the 2nd defendant and deliver the same now the 2nd defendant being the exclusive possession of the suit property from the date of execution of settlement deed. Hence the 2nd defendant properly submitted an application before the revenue authorities to issue a patta in her favour. Hence the plaintiffs cannot entitled

to object valid right of the 2nd defendant. Hence the suit may be dismissed.

On perusal of section 14 of Patta Pass Book Act 1983 it is absolutely discretionary administrative power of the revenue authorities to adjudicate after receiving an application of seeking patta.

(2008) 1 MLJ 1012

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Present : A.C.Arumugaperumal Adityan, J.

C.R.P. (NPD) No3995 of 2007 and M.P.No 1 of 2007.

7th January 2008

District Collector, Tiruvannamalai and others. Petitioners.

Versus

Jayaseelan Respondent.

Code of Civil Procedure (5 of 1908), Order 21 Rule 22 and Rule 35 and Section 9 Tamil Nadu Patta Passbook Act (1983), Section 14 Suit for injunction Exparte decree Impugned order passed in Execution Petition - Suit clearly barred under Section 14 of Act of 1983 As such, suit itself not maintainable as hit by Section 9 of C.P.C. Hence exparte decree passed in said suit cannot be executed. according to the citation the Civil Court is barred by Section 14 of Patta Passbook Act.

In generally if the patta issued in wrong name or mis name the court can interfere in to the discretionary power of the revenue authorities in the instant case the DW2 submitted an application seeking patta in respect of suit properties with the documents. hence there is no wrong to decide the issues according to law. Hence the plaintiffs did not entitled any relief as

prayed in the issue it is purely administrative discretionary power of the revenue authorities to adjudicate the applications seeking patta. Hence the issues answered against this plaintiffs.

Issue No.6:-

Issue No. 1 to 5 findings are given infavour of the plaintiff. No other relief to be given to the plaintiff. Hence this issue is answered accordingly.

In the result, the suit is dismissed. No costs.

Dictated to the Typist, transcribed and typed by her, corrected and pronounced by me, in the open court, this the 27th day of February , 2015.

(Sd/-R.Pachiyappan)

District Munsif,

Arni.

Plaintiff's side Exhibits:

Ex.A1	09.07.2008	A Register.
EX.A2	.....	Patta stands in the name of Velan.
EX.A3	.....	Patta stands in the name of Murugan.
EX.A4	.....	Patta stands in the name of Ponnusamy.
EX.A5	14.02.1983	Sale deed by Ponnusamy Balan infavour of Ponnammal
Ex. A6	23.06.2008	Computer patta stands in the name of chellan
Ex.A7	23.06.2008	Computer patta stands in the name of Gangammal and others
Ex.A8	23.06.2008	A register stands in the name of chellan
Ex.A9	23.06.2008	A register stands in the name of Gengammal and others
Ex.A10	.....	Kist Receipt Unclear copy.
Ex.A11	09.09.1986	Kist Receipt by chellan
Ex.A12	08.02.1987	Kist Receipt by chellan
Ex.A13	.....	Kist Receipt Unclear copy

Ex.A14	10.02.1990	Kist Receipt by chellan.
Ex.A15	13.03.1999	Kist Receipt by chellan.
Ex.A16	08.01.2004	Kist Receipt by chellan.
Ex.A17	23.02.1990	Kist Receipt by Perumal.
Ex.A18	03.01.1991	Kist Receipt by perumal
Ex.A19	21.05.1993	Kist Receipt by perumal.
Ex.A20	28.03.1994	Kist Receipt by perumal
Ex.A21	08.08.1995	Kist Receipt by perumal
Ex.A22	08.08.1995	Kist Receipt by Gengammal
Ex.A23	02.02.2002	Kist Receipt by Gengammal
Ex.A24	26.06.2007	Kist Receipt by Devindran
Ex.A25	12.02.2009	Kist Receipt by Devindran
Ex.A26	11.02.2008	Kist Receipt by chellan
Ex.A27	21.01.2009	Kist Receipt by chellan
Ex.A28	...	Caveat O.P. 215/2008 by munusamy against chellan.
Ex.A29	20.02.2002	Settlement deed registration copy
Ex.A30	16.06.2009	Adangal
Ex.A31	16.06.2009	Adnagal
Ex.A32	08.08.2013	A Register.

Plaintiff's side Evidence:

PW1	... Thiru. Chellan (1st plaintiff)
PW2	... Tmt. Thamaraiveni

Defendant's side Exhibits:

Ex.B1	05.08.1946	Sale deed by Venkata reddy and others infavour of Muniyan
Ex.B2	22.04.1946	Sale deed by Krishna reddyar infavour of Muniyan
Ex.B3	22.04.1946	Sale deed by Krishna reddyar infavour of Ponnusamy son of Kanji.

Ex.B4 19.11.19486 Sale deed by Muniyan and others infavour of Munusamy

Ex.B5 02.09.1947 Mortgage deed by Muniyan infavour of Murugan,

Ex.B6 06.11.2009 V.L.R. Copy.

Ex.B7 18.11.2008 Encumbrance Certificate.

Ex.B8: 29.09.2008 Letter from Collector.

Defendant's side Evidence :

DW1 ... Tmt. Salammal(2nd defendant)

(Sd/-R.Pachiyappan)
District Munsif, Arni.