

K. Chandralekha Vs. S. Ravikumar and Others

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Court : Chennai

Decided On : Aug-05-2016

Judge : K. Ravichandrabaabu

Appeal No. : Second Appeal No. 408 of 2016 & C.M.P.No. 7136 of 2016 (A.S.No.26 of 2014, I.A.No.126 of 2014 in O.S.No.157 of 2012).

Appellant : K. Chandralekha

Respondent : S. Ravikumar and Others

Judgement :

(Prayer: Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 16.12.2014 passed in A.S.No.26 of 2014 on the file of the Sub-Court, Tambaram reversing the fair and decretal order dated 21.03.2014 passed in I.A.No.126 of 2014 in O.S.No.157 of 2012 before the Principal District Munsif, Alandur.)

The appellant is the 5th defendant in a suit for declaration to declare various sale deeds executed commencing from the year 1991 to 2010 as null and void; for a direction to the District Revenue Officer to cancel the patta issued to the defendants 1 to 19 and to issue fresh patta to the plaintiff and his family members; for a mandatory injunction directing certain defendants to remove illegal construction put up by them; for permanent injunction restraining the defendants 1 to 19 from in any manner interfering with the plaintiff's peaceful possession and

enjoyment of the suit property and for permanent injunction restraining the defendants 1 to 19 from encumbering the suit property.

2. The first respondent herein is the plaintiff in the above suit. The appellant herein as the 5th defendant filed I.A.No.126/2014 under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the suit is barred by limitation as the challenge against the sale was made beyond the period of limitation.

3. The said application was opposed by the plaintiff by filing a detailed counter affidavit by contending that the suit is not barred by limitation as the plaintiff in the mean time, had initiated proceedings before the Revenue authorities which ended only in the year 2011.

4. The trial Court by the contention of the appellant herein, allowed the application and thereby rejected the suit by holding that the plaintiff has approached the Court beyond the period of limitation. Challenging the said order, the plaintiff filed an appeal in A.S.No.26 of 2014. The Appellate Court, allowed the appeal and restored the suit on the file of the trial Court. Challenging the reversing judgment and decree of the Lower Appellate Court, the 5th defendant filed the present Appeal.

5. This Court admitted the Second Appeal by raising the following substantial questions of law.

a) Whether in law, the lower Appellate Court was right in holding that the suit was in time under Section 14 of the Limitation Act when revenue proceedings would not amount to bonafide prosecution in a Civil Court?

b) Whether in law the lower Appellate Court was right in overlooking that the suit seeking for a declaration that documents of the year 1996 were null and void was barred by limitation under Act 58 of the Limitation Act?

c) Whether in law the lower Appellate Court was right in failing to note that the suit was an abuse of process of court liable to be rejected vide 1998 (1) CTC 66, Ranipet Municipality Vs. M.Shamsheerkhan?

Thereafter, the matter is listed before this Court for final hearing.

6. Mrs.Hema Sampath, learned senior counsel appearing for the appellant submitted as follows:

6.a) On the face of the plaint averments itself it is evident that the plaintiff had knowledge of the sale even in the year 2007 itself and however, he has chosen to file the suit in the year 2012 after the period of limitation. The proceedings initiated before the Revenue authorities itself was after nine years of the sale. Therefore, the trial Court has rightly rejected the suit.

6.b) In support of her contention, the learned senior counsel relied on the following decisions:

i) 2007(5) MLJ 187 (Hardesh Ores Pvt. Ltd. vs. Hede and Co.)

ii) AIR 2006 Delhi 182 (Kamal Gupta v. Uma Gupta and Ors)

iii) 2013(4) CTC 175 (M.Banupriya v. M.Lakshmi).

7. Per contra, Mr.C.V.Subramaniam, learned counsel appearing for the first respondent/plaintiff submitted as follows:

7.a) The plaintiff is the absolute owner of the property having derived title by way of succession from his grandmother who got the title to the property by way of sale dated 09.08.1945. The defendants 1 to 3 played fraud and created forged documents also by fabricating the revenue records. Thus, they sold the suit property as though they were owners, to other purchasers who were shown as the other defendants. When a plea of fraud and forgery is raised, the question of application of limitation does not arise. Even otherwise, the plaintiff was engaged in initiating the proceedings before the revenue authorities for cancellation of patta and such proceedings had prolonged till 2011 by passing various orders. As the revenue officials have directed the plaintiff to go before the Civil Court and establish his right, the present suit is filed in the year 2012. Therefore, the suit is not barred by limitation as it is saved by the provisions under Section 14 of the Limitation Act. Pendency of the proceedings before the revenue authorities is also

to be treated as the one covered under Section 14 of the Limitation Act. The question of limitation is a mixed question of law and fact and therefore, such issue has to be relegated to be decided only at the time of trial.

7.b) In support of his submission, learned counsel relied on the following decisions:

2000 (5) SCC 355 (P.Sarathy vs. State Bank of India).

8. Heard the learned senior counsel appearing for the appellant and the learned counsel for the first respondent and perused the materials placed before this Court.

9. The point for consideration in this Second Appeal, based on the substantial questions of law already framed by this Court, is as to whether the plaint in the present suit is liable to be rejected on the ground that the same is barred by limitation.

10. Before answering the above question, it is better to understand as to what is the case of the plaintiff as set out in the plaint, since we are concerned, at present, only with the scope and merits of the application filed under Order 7 Rule 11 C.P.C.

11. It is well settled that for deciding the application filed under Order 7 Rule 11 CPC, the Court has to take into consideration only the plaint averment and to see the case as projected by the plaintiff to find out whether such plaint can be sustained or rejected. The case on merits as projected by the applicant/defendant while seeking rejection of the plaint cannot be looked into. In other words, what is to be seen in such petition filed by the defendant is as to whether he has made out a case for rejection of the plaint and as to whether such ground taken by the defendant has fallen within the ambit and scope of the requirements of Order 7 Rule 11 CPC. Whatever stated by the defendant on the merits of the claim made in the suit or whatever the case projected by the defendant against the plaintiff cannot be a deciding criteria at this stage, as these rival pleadings of the parties need to be adjudicated only after conducting the trial.

12. In this case, only ground raised for rejection of the plaint is that the suit is barred by limitation. It is true that the sale in favour of the 5th defendant had taken place as early as on 22.07.1998 by way of registered sale deed executed by one Samu and the suit challenging such sale with other reliefs was filed on 20.01.2012. Therefore, it has to be seen from the plaint averment as to how the plaintiff seeks to sustain the suit even though the same has been filed after 14 years from the date of the said sale. Needless to state that at this stage, the Court cannot go into the sustainability of the claim made by the plaintiff, as such exercise has to be done only after considering the rival pleadings of the parties and the evidence let in by them in the trial. Therefore, for deciding as to whether the plaint is liable to be rejected as the suit is barred by limitation, the Court has to consider the entire plaint averments narrating the sequence of events and see as to how the plaintiff projected his case that the suit is not hit by the law of limitation. Certainly, the question whether the plaintiff is entitled to succeed on such projection based on such sequence of events is a triable issue which cannot be decided at the threshold. In other words, only when the plaintiff has not made any averments explaining the delay in approaching the Court, the Court can come to the conclusion that the plaint cannot be sustained, on the face of it, as the relief is barred by limitation. Certainly, a reading of the cause action paragraph alone in the plaint cannot serve the purpose, as such cause of action needs to be culled out from the reading of the entire plaint.

13. Now let me consider the plaint averment as projected by the plaintiff which are as follows:

The suit property was owned by one Annammal, wife of Govindan @ Govindaraj who purchased the said property from her brother Madurai and his sons Mari, Munusamy @ Ponnurangam and Chinnathambi by way of a sale deed dated 09.08.1945, registered as Document No.1409/1945 on the file of Sub-Registrar, Saidapet. The said Annammal is the grandmother of the plaintiff and she was in possession and enjoyment of the said property by cultivating the same. Patta was granted in her name in patta No.99 and Adangal was also issued in her name. The plaintiff's grandmother died on 17.09.1960 leaving behind her only son by name Subramanian as her legal heir. Her husband pre-deceased her. The said

Subramanian is the father of the plaintiff. He cultivated the land by exercising his right of exclusive ownership. The vendors of the said Annammal, namely, Mari, Munusamy @ Ponnurangam and Chinnathambi, who are owning adjacent lands, fraudulently created false documents and mutation of revenue records, as if they are the owners of the suit property as well by getting patta under the UDR scheme. The said fact was not known to the plaintiff's father. Those persons sold the property to various parties illegally without having any title. The plaintiff's father died leaving behind the plaintiff and other persons as his legal heirs and therefore, they become the owners of the property. The said transaction made by those persons in favour of the other defendants are illegal, fabricated and fraud. Thus, they are void documents and cannot bind the plaintiff's family members. Only after the death of the plaintiff's father, they came to know about the above fraudulent transactions and immediately they approached the revenue authorities and sought to cancel the patta and re-issue patta in their favour. They lodged a complaint before the Revenue Divisional Officer on 16.04.2007. Based on the complaint, the Tahsildar, Tambaram, conducted an enquiry and through his proceedings dated 11.10.2007 confirmed that there was a mal-practise committed by those persons by selling the properties to various parties. He also recommended to cancel the patta standing in their name and issue patta to the legal heirs of Annammal. One Samu, vendor of the 5th defendant who is the son of the said Mari had also given the statement before the Revenue Inspector on 11.10.2007 that other persons have fabricated false documents in respect of the property belonging to the plaintiff's family. The said Samu also confessed before the said authority that he did not sign any sale deed. The Tahsildar, Sholinganallur passed an order in the month of February, 2010 that the suit properties belong to the plaintiff and his family. Based on the report and the recommendation of revenue officials, the R.D.O, Tambaram, perused the entire records and confirmed that the suit property originally belonged to the said Annammal and there was some erroneous entries in the name of Chinnathambi, Samu, Manase and Thomas and that patta was issued illegally in favour of subsequent purchasers and the same is liable to be cancelled by issuing patta in favour of the plaintiff. Thus, the R.D.O, through such order dated 18.03.2010 recommended the D.R.O., Kancheepuram to pass suitable orders. However, the D.R.O. failed to exercise his powers and pass

orders. On the other hand, he directed the Tahsildar, once again to enquire into the matter, who in turn, through proceedings, dated 10.03.2011, directed the plaintiff to approach the Civil Court. The said order of the Tahsildar dated 10.03.2011 was again challenged by the plaintiff before the R.D.O, who in turn, through his proceedings dated 21.07.2011, once again, confirmed that patta issued in favour of those persons including defendants 1 to 3 under UDR scheme were based on fraudulent sale deeds and liable to be cancelled and that the claim of the plaintiff is reasonable and genuine. In spite of such order passed by the D.R.O, the R.D.O, passed erroneous order that at the time of implementation of UDR, patta was issued mistakenly or wrongly even though the lands were sold to third parties by the defendants. The defendants 1 to 3 are land grabbers and they impersonated Annammal and obtained patta under UDR scheme in order to grab the suit property thereby cheating the plaintiff and his family members. The plaintiff has been in peaceful possession and enjoyment of the suit property exercising ownership of the same. There was an attempt to interfere with his possession on 28.01.2012 by the defendants Chinnathambi etc. and a police complaint was lodged. Therefore, the plaintiff sent a legal notice on 25.01.2012, when an attempt was made to encumber the suit property.

14. By saying so in the plaint, the plaintiff averred the cause of action in paragraph No.29, as follows:

29. The cause of action for the suit arose at Injambakkam village, within the jurisdiction of this Honourable court, where the suit property situated, when on 09.08.1945 Mrs.Annammal the grand mother of the plaintiff had purchased the suit property and cultivating the land, when on 17-09-1960 the said Annammal had died leaving his only son Subramanian, Subramanian cultivating the land, when the year 1987 the defendants 1 to 3 and one Samu have created some forged documents and patta affecting the title of the plaintiff's family members and have sold the property to various parties the defendants herein, when on 20-02-2002 Mr.Subramanian died leaving the plaintiff and his brother and sisters, and are in possession and enjoyment of the suit a schedule property when the year 2007 the plaintiffs came to know about the fraudulent and forged documents by the defendants 1 to 19, when on 2-5-2007 the plaintiff had preferred a petition to

cancel the patta granted in favour of the defendants 1 to 19, when on 11-10-2007 Revenue Inspector Pallikaranai had sent a report to the Tahsildar, when the year 2010 the Tahsildar forwarded his report to DRO, kanchipuram, when on 18-3-2010 RDO, Tambaram forward his report to the DRO, Kanchipuram, when 23-11-2010 DRO called for specific remarks to the RDO, when on 21-07-2011 RDO, Tambaram had sent his specific remarks to DRO, Kanchipuram, when on 09-11-2011, DRO Kanchipuram, passed a final order, when on 28-01-2012 the defendants 1 to 19 have attempt to trespass into the suit property and the same was prevented, when on 28-01-2012 the plaintiff has lodged a complaint before the J8 Neelankarai Police station, when on 25-01-2012 the plaintiff has sent a legal notice to the Sub-Registrar, Neelangarai, in spite of that the respondents/ defendants have attempt to trespass into the suit property on 12-02-2012 and the illegal act of the defendants are continuous, hence the suit.

15. From the above contentions raised in the plaint, this Court has to see as to whether the plaint on the face of it is liable to be rejected as barred by limitation.

16. It is true that the plaintiff has come to the Court in the year 2012 challenging the sale made as early as in the year 1998 in the case of the appellant herein. Though it may appear from the above events, namely, the date of the sale and the date of filing of the suit, that the suit is barred by limitation, it cannot be as such decided only by taking note of those dates of events. On the other hand, the entire sequence of events as stated in the plaint commencing from the transfer of title to the suit property till the date of filing of the suit have to be considered as a whole to find out as to whether the plaint, as presented, is barred by limitation.

17. In this case, the plaintiff specifically claims title to the property by way of inheritance from his grand mother. He relied on the sale deed executed in favour of his grandmother Annammal as early as in the year 1945 by one Madurai and his sons. The 1st defendant is one of his sons whereas the 2nd and 3rd defendants are the children of another son namely Mari. The plaintiff also specifically pleaded fraud played by the defendants 1 to 3 in getting the revenue records mutated based on fraudulent, fabricated and forged documents. It is his specific case that the revenue officials on various occasions, based on complaint

given by the plaintiff and his family members, found that the grant of patta in favour of those defendants was an outcome of mal-practice and that the patta granted in their favour is illegal and liable to be cancelled by granting patta in favour of the plaintiff. It is the clear case of the plaintiff that such proceedings initiated before the revenue officials in the year 2007 commenced only after acquiring the knowledge of those fraudulent transfers after the death of his father. It is the further case of the plaintiff that such initiation of the proceedings before the revenue officials in the year 2007 prolonged till 2011 and thereafter, the present suit is filed.

18. When such being the clear and categorical case of the plaintiff, more particularly pleading of fraud, forgery, impersonation etc., I am of the view that the technical plea of limitation as raised by the appellant herein cannot be gone into at this stage.

19. It is well settled that the plea of fraud, forgery, impersonation alleged to have been committed in respect of certain transactions, will go to the root of the matter and that if such plea is proved, such transaction made however long ago, becomes void abinitio and the person claiming under such fraudulent transaction cannot be permitted to hold such fraudulent title continuously merely because a technical plea of limitation would come to his rescue. Needless to say that technical objections if any raised may be encouraged, considered and decided by the Courts only when such objection, if allowed, would result in rendering the substantial justice between the parties and not subverting the justice.

20. This Court considered the very same issue in a recent decision reported in **2015(2) CTC 67 (Kolli Venkata MohanRao and another vs. J.M.Patricia and others)** wherein after following the decision of the Apex Court, in Laxmibai's case, it has been observed at paragraph No.33 as follows:

33. Above all, in this case, a thorough reading of the Plaint would show that the Plaintiffs have pleaded that the impugned transactions were made by committing the act of forgery and impersonation. According to them, the original owner, namely, Andrew Xavier Packiam died intestate on 22.8.1978, and therefore, the alleged Power of Attorney, dated 18.8.2000 said to have been executed by such

dead person, was a rank forgery and by impersonation. This allegation is certainly a very serious one and if the same is proved, all the impugned transactions cannot be sustained and they become void-ab-initio. Therefore, the Plaintiffs who made such allegation should be given sufficient opportunity to prove the same by conducting trial. Unless it is found that such allegation is baseless or false and without supporting evidence, the person against whom such serious allegation is made, cannot be permitted to raise certain technical objections to escape from the clutches of trial. It is well settled that if technicalities and substantial justice are pitted against each other, only the latter should be preferred. At this juncture, the observations made by the Honourable Supreme Court in the case reported in *Laxmibai v. Bhagwantbuva*, 2013 (1) MWN (Civil) 446 (SC) : (2013) 4 SCC 97, in Paragraph 49 in particular, are relevant to be quoted:

49. . When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred and the Courts may in the larger interests of administration of justice may excuse or overlook a mere irregularity or a trivial breach of law for doing real and substantial justice to the parties and pass Orders which will serve the interest of justice best.

Therefore, these technical objections raised by the defendants 1 and 2 in their application for rejection of Plaint, cannot be sustained at this stage, especially when those objections are matters for trial. This Court is not to be mistaken as if it holds that no such technical objections can be raised in the Application under Order 7, Rule 11, C.P.C. What it wants to emphasise is as to who can raise such technical objections. As stated supra, a person against whom forgery and impersonation are pleaded, is not certainly a person entitled to speak about the technicalities and seek for a decision on such technical objections first at the threshold, without submitting himself to the trial to disprove such serious allegations.

21. Further, in a decision of the Honourable Supreme Court reported in **(2012) 11 SCC 574 (Badami v. Bhali)**, it has been observed in paragraphs 30 to 33 as follows:

30. In *S.P. Chengalvaraya Naidu v. Jagannath* ((1994) 1 SCC 1) this Court commenced the verdict with the following words: (SCCp. 2, para 1)

1. Fraud avoids all judicial acts, ecclesiastical or temporal observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eye of the law. Such a judgment/decre--by the first court or by the highest court--has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.

In the said case it was clearly stated that the courts of law are meant for imparting justice between the parties and one who comes to the court, must come with clean hands.

31. A person whose case is based on falsehood has no right to approach the court. A litigant who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If a vital document is withheld in order to gain advantage on the other side he would be guilty of playing fraud on court as well as on the opposite party.

32. In *Shrisht Dhawan v. Shaw Bros.* ((1992) 1 SCC 534 : AIR 1992 SC 1555) it has been opined that the fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It has been defined as an act of trickery or deceit. The aforesaid principle has been reiterated in *Roshan Deen v. Preeti Lal* ((2002) 1 SCC 100 : 2002 SCC (LandS) 97 : AIR 2002 SC 33), *Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education* ((2003) 8 SCC 311), *Ram Chandra Singh v. Savitri Devi* ((2003) 8 SCC 319).

33. In *State of A.P. v. T. Suryachandra Rao* ((2005) 6 SCC 149) after referring to the decision this Court observed as follows: (SCC.p. 155, para 16):

16. In *Lazarus Estates Ltd. v. Beasley*, (1956 (1) QB 702 : 1956 (2) WLR 502 : 1956 (1) All E.R. 341) Lord Denning observed at QB. p. 712:

.. No judgment of a court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything.

In the same judgment Lord Parker, L.J. observed that fraud vitiates all transactions known to the law of however high a degree of solemnity (Lazarus case-QB p. 722) (1956 (1) QB 702 : 1956 (2) WLR 502 : 1956 (1) All E.R. 341)

22. Learned senior counsel for the appellant relied on the decision of the High Court reported in **2007(5) MLJ 187 (Hardesh Ores Pvt. Ltd. vs. Hede and Co.)**. The Apex Court observed in paragraph No.21 as follows:

21. The language of Order VII Rule 11 C.P.C. is quite clear and ambiguous. The plaint can be rejected on the ground of limitation only where the suit appears from the statement in the plaint to be barred by any law. Mr.Nariman did not dispute that "law" within the meaning of clause (d)of Order VII Rule 11 must include the law of limitation as well. It is well settled that whether a plaint discloses a cause of action is essentially a question of fact, but whether it does or does not must be found out from reading the plaint itself. For the saidpurpose, the averments made in the plaint in their entirety must be held to be correct. The test is whether the averments made in the plaint if taken to be correct in their entirety a decree would be passed. The averments made in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order VII is applicable. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. As observed earlier, the language of clause (d) is quite clear but if any authority is required, one may usefully refer to the judgments of this Court in Liverpool and London S.P. and I Association Ltd. v. M.V.Sea Success I and Another (2004) 9 SCC 512 and Popat and Kotecha Property vs. State Bank of India Staff Association (2005) 7 SCC 510.

23. A perusal of the above decision would reveal that the same supports only the case of the plaintiff and not the case of the appellant. In the above decision, the Apex Court has pointed out that to find out as to whether the plaint discloses the cause of action, it is essential that the question of fact must be found out from the reading of the plaint in its entirety and it is not permissible to cull out sentence or passage and to read it out of the context in isolation. I have already pointed out the

entire allegations made in the plaint. Therefore, the above decision does not support the case of the appellant.

24. A decision of the Delhi High reported in AIR 2006 Delhi 182 (Kamal Gupta v. Uma Gupta and Ors) is cited by the learned senior counsel to contend that the plaint has to be rejected as it is clearly barred by law of limitation. A perusal of the facts and circumstances of the case before the Delhi High Court would show that the plaintiff therein sought a decree for declaration in respect of half share in the suit property therein and for permanent injunction on the reason that there was no valid relinquishment deed executed by the plaintiff. Therefore, on being satisfied from the plaint averment therein that the plaintiff has come before the Court after sixteen years from the date of such relinquishment by contending that it has not been acted upon, the Delhi High Court rejected the plaint. Thus, it is evident from these facts that the plaintiff therein who was party to the document, namely, relinquishment deed sought to challenge such execution or its validity after sixteen years and consequently, claimed title to the suit property therein. Therefore, it is evident that those facts are different. Admittedly, the plaintiff herein was not a party to any of the sale deed and his specific contention is that fraud, forgery, impersonation has been committed by the defendants 1 to 3 in creating the impugned sale deeds. When that being the contention in the present case, the above decision of the Delhi High Court, in my considered view, is not applicable to the present case.

25. A decision of this Court reported in 2013(4) CTC 175 (M.Banupriya v. M.Lakshmi) is relied on by the learned senior counsel for the appellant to contend that single suit filed challenging several independent sale deeds is not maintainable as there is no interconnection between the defendants and the transactions. First of all, such ground of maintainability will not fall under the scope of Order 7 Rule 11 C.P.C. Even otherwise, the facts and circumstances of the above said case would show that they are totally different and distinguishable. It is seen that the plaintiff therein contended that the 2nd defendant therein had sold the property by misusing the power of attorney deed given to him. Therefore, the learned Judge has observed that there was no connection between the defendants and the transaction which they had with the power agent of the plaintiff

and therefore, a combined cause of action did not arise therein against all the defendants therein. The facts and circumstances of the present case are not similar to the one in the above case. First of all, the plaintiff herein was not a party to any of the documents and on the other hand, he claims that he is the owner of the property and the defendants 1 to 3 have jointly played fraud, forgery, impersonation and fabricated the documents and obtained patta by fraud. Therefore, I find that a combined cause of action has arisen in this case for the plaintiff to file a single suit against all the defendants. Merely because, the purchasers are totally different and they are not having any connection with each other, the same does not preclude the plaintiff from filing a single suit against all the defendants. After all, the main issue to be decided in the suit in respect of all transactions will be as to whether any fraud, forgery, impersonation, fabrication of records were made by the defendants 1 to 3 in setting up title in respect of the suit property and selling the same to other defendants. Therefore, the above decision is also not helping the appellant in any manner.

26. Learned counsel for the appellant submitted that the proceedings initiated before the revenue authorities cannot be equated with the civil suit so as to warrant the exclusion of period taken by such forum while calculating the period of limitation contemplated under section 14 of the Limitation Act.

27. I have already pointed out that the present suit is not the one simply challenging the sale deeds alone but also for seeking other reliefs namely, a direction against the 21st defendant namely D.R.O, and also for mandatory and permanent injunction against other defendants. It is the specific case of the plaintiff that he is still in possession and enjoyment of the property with which, the defendants are trying to interfere. When such being the reliefs sought for in the suit, I do not think that the learned senior counsel for the appellant is justified in contending the relief sought for before the revenue authorities and the present suit is not one and the same. When several reliefs are sought for in a suit and some of those reliefs are identical with the relief sought in some other proceedings, certainly, shelter under Section 14 of the Limitation Act can be taken by the plaintiff. In fact in a decision reported in **2000(5) SCC 355 (P.Sarathy vs. State Bank of India)**, the Honourable Apex Court, while considering the scope of

Section 14(1) of the Limitation Act has observed that it is not necessary that the 'Court' spoken of in Section 14 should be a civil court and any authority or Tribunal having the trapping of a court would be a Court within the meaning of such Section. Even otherwise the question as to whether the proceedings initiated before the revenue authorities would come under the purview of Section 14 of Limitation Act and whether based on such proceedings, the plaintiff could seek for exclusion of period so as to bring the suit within the period of limitation are all questions which are to be left to be taken along with other issues and decided after full fledged trial. Under the guise of considering the application under Order 7 Rule 11 CPC, a mini trial within regular trial cannot be conducted.

28. Considering all the above stated facts and circumstances, this Court is of the view that the rejection of the plaint is not warranted in this case, based on the grounds raised by the appellant. The lower appellate Court has rightly reversed the findings of the trial Court and restored the suit. The questions of law raised in this appeal are answered against the appellant and thus the Second Appeal is dismissed. The trial Court is directed to take up the suit and dispose of the same on merits and in accordance with law also by considering the question of limitation by raising such question also as a triable issue. The trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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