



Order dated 19.02.2024
in W.P.No.35176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35176 of 2023
and
W.M.P.Nos.35160, 35161 and 35162 of 2023

K.Kulanthai Rani

.. Petitioner

Vs.

1. The District Collector,
Chennai-District,
Chennai.
2. The Revenue Divisional Officer,
Chennai Central Revenue Division,
Chennai.
3. The Tahsildar,
Egmore-Taluk,
Chennai-District.
4. The District Collector, Tirunelveli,
(Court of Wards of Sivagiri Zamin)
Collectorate - Tirunelveli
Tirunelveli - District.
5. Dewan Bahadur,
M.O.Parthasarathi Iyengar Charitable Trust,
No.S153/72, Venkatarangam Pillai Street,
Triplicane, Chennai-05.

..Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus pertaining to the impugned order passed by the first respondent, vide Na.Ka.No.J3/4371/2021, dated 18.11.2023 and quash the same and thereby direct the respondents 1 to 3 to keep the Pattadar's names in the name of the petitioner's grandfather Senthatti Kalai Pandian Chinnathambiar and five others as before, with respect to S.No.51/2 in Nungambakkam Revenue Village, in Egmore Taluk, in Chennai District.

For petitioner : Mr. F.X.Eugene

For respondents: Mr.T.Arun Kumar, Addl.G.P. for RR-1 to 4
Mr.K.Shakespeare for R-5

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus pertaining to the impugned order passed by the first respondent, vide Na.Ka.No.J3/4371/2021, dated 18.11.2023 and quash the same and thereby direct the respondents 1 to 3 to keep the Pattadar's names in the name of the petitioner's grandfather Senthatti Kalai Pandian Chinnathambiar and five others as before, with respect to S.No.51/2 in Nungambakkam Revenue Village, in Egmore Taluk, in Chennai District.



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2. Heard both sides and perused the impugned proceedings.

3. Brief facts of the case as culled out from the affidavit filed in support of the Writ Petition, are as follows:

(a) The Patta in respect of the property in question was standing in the name of the legal heirs of the deceased last Zamindar - Ramalinga Varaguna Rama Pandia Chinnathambiar, one Senthatti Kalaipandia Chinnathambiar, Gurusamy Pandian, Sangili Veerappa Pandian @ Thangasamy, Peria Muthusamy Pandian @ Chellasamy, Sangili Veerappa Pandian and Muthu Samy Pandian. The Patta which was standing in the names of the above said six persons, i.e. excluding Zamindar, is not recorded in the computerised Patta, in which, it was wrongly mentioned in some other names. Therefore, the son of the petitioner, i.e. Soundar Rajan made a representation to the first respondent/District Collector on 18.10.2019 to correct the entry in the computerised Patta in the above said legal heirs' names. Since the first respondent has not carried out the same, he earlier filed a Writ Petition before this Court in W.P.No.34024 of 2019, which was allowed on 24.07.2020 directing the second respondent/Revenue Divisional Officer (RDO) to consider the said representation dated 18.10.2019 and pass orders within a period of two weeks.

(b) Accordingly, the second respondent passed orders, vide

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Na.Ka.No.522/202082, dated 24.09.2020 directing the third respondent therein (RDO, Chennai) to make such entries in the computerised Patta and accordingly, the corrections have been made with the Pattadar's names of the above said six persons (excluding Zamindar) and these six persons are the Pattadars.

(c) Among those legal heirs of six persons, five of them have released their rights in favour of one person, i.e. Varaguna Rama Pandia Chinnathambiar, and therefore, after the release of their rights by five persons, at present, Patta has to be changed in the name of one Varaguna Rama Pandia Chinnathambiar, and since he had died, necessary changes have to be made in respect of his legal heirs, i.e. Shenthattikalai @ Sivagiri Raja, Kuttiraja @ Sanigili Veerappa Pandian, Yuvaraj, Ayilya Raja and Jeyarani, who are the present legal heirs to inherit the properties in question.

(d) The names of the legal heirs of the deceased Varaguna Rama Pandia Chinnathambiar had to be impleaded in the Records and therefore, the present legal heirs of those parties have inherited the property in question, whereas, the second respondent herein, by proceedings dated 05.09.2020, has ordered Patta to be changed in the name of those five persons before the release and hence, once again, the petitioner submitted a representation on 15.10.2020 to grant Patta in the names of those five persons being the legal heirs of the deceased Varaguna Rama Pandia Chinnathambiar, before the said release of rights.



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(e) As there was necessity to make reminder, the petitioner sent a reminder on 04.02.2021 and as there was no response, the petitioner filed W.P.No.20103 of 2021 before this Court for issuance of Writ of Mandamus and the same was allowed on 21.09.2021 directing to consider the said representation, dated 15.10.2020 within 12 weeks.

(f) Thereafter, the first respondent made enquiry on 18.08.2022 and without making any further enquiry, the matter was kept pending before the first respondent and thereafter, the petitioner came to know that a suit was filed by one Rani Bala Kumari Nachiar and five others against one Dewaan Bahadur and others in O.S.No.11864 of 2010 before the 5th Additional Judge, City Civil Court, Chennai, which was dismissed on 30.09.2022 as the said suit was held to be barred by limitation, and challenging the same, an appeal in Appeal Suit No.275 of 2023 was filed before this Court and is pending.

(g) In the meantime, the son of the petitioner, namely Soundar Rajan filed a Writ Petition in W.P.No.28786 of 2023 for issuance of a Writ of Mandamus to direct the respondents 1 to 8 therein to take appropriate action against the ninth respondent therein and demolish the unauthorised construction put up by the ninth respondent therein in Survey No.51/2, Block No.10, Nugambakkam Village, Egmore Circle, Chennai, based on the letter issued by the fifth respondent therein, bearing Number G.PIO/13993/2022, dated 12.01.2023. In this Writ



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Petition, the third respondent therein file counter affidavit stating that in the old Pattas, the name of the petitioner (herein)'s grandfather was existing as Pattadars for the same land. A map was also filed to show the location of the said property and it is specifically stated in paragraph 11 of the counter that final orders have to be passed by the District Revenue Officer, Chennai District. The said W.P.No.28786 of 2023 was pending at the time of filing of this Writ Petition and it was dismissed on 06.02.2024 by a Division Bench of this Court, holding as follows:

"7. This Court finds that the petitioner is a person having rival claim, raising serious dispute questioning the title of the 9th respondent. Even though he has pointed out before this Court, certain unauthorised constructions said to have been put up by the 9th respondent, the objection to the construction is on the basis of title dispute over the subject property. The official respondents are not competent to decide the question of title. Hence, the 5th respondent is directed to dispose of the application filed by the 9th respondent for regularization either filed pursuant to 1999 scheme or subsequent amendment which can be availed by making application in terms of Section 113-C of the Chennai City Municipal Corporation Act, depends upon the outcome of regularization the 5th



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respondent may take appropriate action if required against the 9th respondent herein. The petitioner is given liberty to prosecute his appeal.

8. This writ petition stands dismissed subject to the above observations and directions issued. No costs."

(h) In the meanwhile, the first respondent, all of a sudden, without following any procedures, for the reasons best known to her, passed order on 18.11.2023 cancelling the second respondent's order dated 24.09.2020 and directed to change the name of the fifth respondent as the Pattadar with respect to the disputed land, after passing of the order in A.S.No.275 of 2023, C.M.P.No.17253 of 2023 and W.P.No.28786 of 2023 and after the disposal of these cases and the Revenue people could be approached and appropriate orders could be obtained and until that time, the Pattadar's name of the fifth respondent/Trust must be entered as Pattadar for the said land. Challenging this order, dated 18.11.2023, the present Writ Petition is filed by the petitioner for the relief stated supra.

4. The first respondent/District Collector has filed counter affidavit and relevant portion of the same reads as follows:

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"5. It is respectfully submitted that while things being so, the petitioner's son namely Sounder Rajan made a representation to the first respondent herein on 18.10.2019 with a request to correct the entries in the Computer Patta in the names of the legal heirs of the last Zaminar. Alleging that his request was not considered, the aggrieved party filed W.P.No.34024 of 2019 and the same was allowed. In the order dated 24.07.2020 in W.P.No.34024 of 2019, this Hon'ble Court had ordered as follows:

"5. Taking into consideration, the facts and circumstances of the case and the limited relief that has been sought for in this writ petition, there shall be a direction to the third respondent namely the Revenue Divisional Officer, Chennai District, to consider the representation made by the petitioner on 18.10.2019 and deal with the same strictly in accordance with law. The Revenue Divisional Officer shall issue notice to all the interested parties and afford them an opportunity before passing final orders. The final orders shall be passed within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the RDO along with the copy of the representation dated 18.10.2019 accompanied by all the necessary documents and also a copy of this order. A copy of the representation shall also be marked to the second respondent.

6. This Writ Petition is disposed of with the above directions. No costs."



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5. From the above counter affidavit filed by the first respondent/District Collector, which is evident from paragraphs 9 and 10 therein, it is clear that the Appeal Suit No.275 of 2023 is still pending before this Court. Further, Thiru.Soundar Rajan, son of K.Kulanthai Rani filed W.P.No.28786 of 2023 seeking to demolish the building constructed unauthorisedly (which was dismissed as extracted above) and therefore, since the dispute in the case on hand, relates to title, the first respondent has passed the impugned order dated 18.11.2023.

6. The fourth respondent/District Collector, Tirunelveli has filed counter affidavit, relevant portion of which is extracted hereunder:

"...

3 It is respectfully submitted that in the W.P.No.7770/2009 and 6990/2012 and M.P.No.1/2009 and in W.P.No.7770 of 2009 common order dated 29.08.2016 was issued directing the Commissioner of Land Administration to dispose of the representations of Thiru T.Selvaraj and R.Padmini Rani within a maximum period of four months after giving notice to the petitioners. After conducting enquiry, the Commissioner of Land Administration has passed a detailed order in his Proceedings No.K4/17065/2008, Dated: 30.03.2017 as follows:

"As per this report, the court of wards which is the Board of Revenue was abolished and three new Departments were created under the Tamilnadu Board of Revenue Abolition Act 1980 (Tamil Nadu Act 36 of 1980) on



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01.12.1980

1. Commissioner of Revenue Administration
2. Commissioner of Land Administration
3. Commissioner of Land Reforms

4. It is mentioned in this order that management of Sivagiri estate was taken over by the Government under the court of wards Act in 1941 only because of the request of the land owner in 1940 and the properties taken over by the court of wards in 1941 fall within the two district namely Tirunelveli and Virudunagar Districts and after the abolition of the Zamindari Act the villages were taken over by the Government on 03.01.1951 from the court of wards Management vide G.O.3157 Dated: 09.12.1950. It has been stated in this order that after 10.02.1957 no properties whether Zamin villages Devasthanam and Chatram Trust properties were under the court of wards. In regard to zamin properties in Chennai and Ooty apart from that in Tirunelveli it is decided that Court of wards, have taken the Custody of Properties that is imbedded in the present Tirunelveli District and Virudhunagar District only and no other properties other than this has been taken over and the onus of proving the lands in Chennai and Ooty to be the zamin lands lies only with the individuals by providing necessary proof of evidences and documents.

5. It is respectfully submitted that the Revenue Divisional Officer, Central Chennai has passed orders in her proceedings 522/2020/A2 Dated: 24.09.2020 to make corrections in the computerized land register based on the manual entries for survey No51/2 of Nungampakkam Village, Egmore Taluk. The Collector of Chennai District has cancelled the above mentioned order Dated: 24.09.2020 of the Revenue Divisional Officer, Central Chennai.

6. It is respectfully submitted that the petitioner has challenged the order No.NA.KA.J3/4371/2021



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Dated: 18.11.2003 of the District Collector, Chennai, the first respondent. It is respectfully submitted that there is no prayer to be considered by 4th Respondent, the District Collector, Tirunelveli.
..."

7. The main grievance of the petitioner is that while carrying out the computerised Patta in respect of the property in question, the original owner's name was not carried out and therefore, they have made a representation which was not considered and there is litigation pending in A.S.No.275 of 2023 and C.M.P.No.17253 of 2023, filed by one Kumari @ Senthatti Veerammal against Rani Balakumari Nachiar and 18 others, and the said A.S. is pending before this Court.

8. Since there is rival claim in respect of right, title and interest in respect of the property(ies) in question, and as A.S.No.275 of 2023 is pending before this Court, and considering the facts and circumstances, the first respondent has passed the impugned proceedings and the relevant portion of the impugned proceedings dated 18.11.2023 in ந.க.எண்.ஜே3/4371/2021, issued by the first respondent/District Collector, reads as follows:

".....

எனவே இந்நேர்வில் சென்னை மாவட்டம், எழும்பூர்



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வட்டம், நுங்கம்பாக்கம் கிராமம், பிளாக் எண்.10, புல எண் 51/2 தொடர்பாக மாண்பும உயர் நீதிமன்றம் உத்தரவின்படி மத்திய சென்னை, வருவாய் வருவாய் கோட்டாட்சியர் தி/ள்.தீவான் பகதூர் எம்.ஓ.பி.பார்த்தசாரதி ஐயங்கார் சாரிட்டி சார்பாக யாரையும் விசாரணைக்கு அழைக்காமல் ஆணை பிறப்பிக்கப்பட்டுள்ளது என்பதால் மத்திய சென்னை வருவாய் கோட்டாட்சியரின் ஆணை எண்.522/2020/அ2 நாள் 24.09.2020 ஆணையினை ரத்து செய்து அதற்கு முந்தைய நிலையான தீவான் பகதூர் எம்.ஓ.பி.பார்த்தசாரதி ஐயங்கார் சாரிட்டி டிரஸ்ட் பெயரில் நிலைநிறுத்த உத்தரவிடப்படுகிறது. மேலும் இப்புலத்திற்கு உரிமை கோருவது தொடர்பாக **A.S.275/2023, CMP No.17253/2023** மற்றும் **W.P.28786/2023** போன்ற வழக்குகள் தற்போது வரை நிலுவையில் உள்ளதால் அவ்வழக்குகளின் இறுதி தீர்ப்பின் அடிப்படையில் வருவாய் துறையினை அணுகி பரிகாரம் பெற்றுக்கொள்ள உத்தரவிடப்படுகிறது. மேலும் மத்திய சென்னை வருவாய் கோட்டாட்சியர் ஏற்கனவே ஒருசாரருக்கு சார்பாக பிறப்பித்த செயல்முறை ஆணை எண்.522/2020/அ2, நாள் 24.09.2020 உத்தரவு ரத்து செய்தும் உத்தரவிடப்படுகிறது."

9. From the above impugned proceedings, it is clear that while changing the Patta in the name of the petitioner, no notice was given and it is further stated that the appeal in A.S.No.275 of 2023 and C.M.P.No.17253 of 2023 and therefore, after deciding those petitions, the petitioner can approach the

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Revenue Authority and get the order based on the outcome of the decision of the above said litigation, i.e. A.S.No.275 of 2023.

10. Therefore, this Court does not find any perversity or illegality or infirmity in the impugned proceedings, dated 18.11.2023. However, the petitioner is at liberty to work out her remedy after deciding the above said pending litigation in A.S.No.275 of 2023 before this Court.

11. The Writ Petition is disposed of with the above observations. There shall be no order as to costs. Consequently, the miscellaneous petitions are closed.

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CS

To

1. The District Collector,
Chennai-District,
Chennai.
2. The Revenue Divisional Officer,
Chennai Central Revenue Division,
Chennai.
3. The Tahsildar,

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Egmore-Taluk,
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4. The District Collector, Tirunelveli,
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