



W.P.(MD)No.22035 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.07.2024

Pronounced on : 30.09.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.22035 of 2021

and

W.M.P.(MD)No.18640 of 2021

A.Anthuvan Lawrence

... Petitioner

Vs.

1. The District Collector,
Tiruchirapalli,
Tiruchirappalli District.
2. The District Revenue Officer,
O/o.The District Revenue Officer,
Tiruchirappalli,
Tiruchirappalli District.
3. The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Tiruchirappalli District.
4. The Tahsildar,
Tiruchirappalli East,
Tiruchirappalli District.

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records pertaining to the impugned order in Na.Ka.Aa6/4778/2019 dated 18.11.2021 on the file of the second respondent and quash the same as illegal and consequently directing the respondents 1 to 4 to grant of patta for the petitioner's property in Door No.23A, Old T.S.No.2331/6, New T.S.No.48, Old Block No.25, New Block No.42, Old ward No.8, New ward No.1, in Varaganeri Village, Tiruchirappalli East Taluk, Tiruchirappalli District to an extent of 2594 sq.ft. within the time frame stipulated by this Court.

For Petitioner : Mr.Mahaboob Fazil
for M/s.Lajapathi Roy and Associates

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The Writ Petition is directed against the order dated 18.11.2021 passed by the second respondent and for directions to the respondents 1 to 4 to grant patta for the writ petitioner's property in Door No.23A, Old T.S.No.2331/6, New T.S.No.48, Old Block No.25, New Block No.42, Old Ward No.8, New Ward No.1 in Varaganeri Village, Tiruchirappalli East Taluk, Tiruchirappalli District.

2. The case of the writ petitioner is that the property in Door No. 23A, Old T.S.No.2331/6, New T.S.No.48, Old Block No.25, New Block



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No.42, Old ward No.8, New ward No.1 was originally in Sengulam Village and now is in Varaganeri Village, that the property in dispute originally belonged to one Innasi Pillai, S/o.Gnanaprakasam Pillai, that the said Innasi Pillai settled the property in dispute and another property in favour of his son John Pillai vide registered settlement deed dated 22.05.1957 on the file of the Sub Registrar, Trichy, that the said John Pillai, who was in possession and enjoyment of the said property, settled the said property in favour of his daughter Clara, W/o.Rijis vide registered settlement deed dated 25.08.2008 and since then the said Clara was in possession and enjoyment of the said property, that the said Clara sold the said property in favour of the writ petitioner vide sale deed dated 09.08.2010 in document No.5175/2010 on the file of the Sub Registrar, Trichy, that the writ petitioner, after transferring the building tax and electricity service connection in his name, has been paying the property tax and electricity consumption charges till now and that the writ petitioner was advised to get patta for the property purchased by him and accordingly he applied on 26.12.2016 before the third respondent for grant of patta.



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3. It is the further case of the writ petitioner that the third respondent vide his proceedings dated 08.02.2017 directed the fourth respondent to enquire on the writ petitioner's application and submit a report, who in turn directed the Village Administrative Officer, Varaganeri Village to submit a report after making field inspection, that the Village Administrative Officer submitted a report to the fourth respondent, who in turn forwarded the same to the third respondent, that the third respondent called for enquiry on 02.06.2017 and in pursuance of the same, the writ petitioner appeared on that day and submitted all the documents, that the third respondent came to the property on 15.12.2017 along with the Village Administrative Officer and enquired the writ petitioner and residents therein, that since there was change of officers in the third respondent's office, the writ petitioner has sent a reminder on 27.09.2018, for which, the writ petitioner was asked to submit encumbrance certificate for the period between 1930 and 1956, A Register of the year 1930 and Survey Land Register (SLR), that the writ petitioner has applied and obtained the documents except SLR as he was informed that SLR was in highly damaged condition and as such, it could not be given, that the writ petitioner was again asked to appear for enquiry before the third



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respondent on 30.11.2018 and submitted a written statement along with documents, that the writ petitioner again appeared for enquiry on 28.12.2018 and subsequently the third respondent along with five officers visited the site and conducted enquiry, that the writ petitioner received a notice dated 06.06.2019 from the first respondent's office to appear for enquiry on 20.06.2019 and in pursuance of the same, he appeared and submitted all documents, that the second respondent on 21.11.2019 sent back the entire file to the third respondent with a query to the third respondent about the name of the Village where the writ petitioner's property was located, who in turn forwarded the same to the fourth respondent, that the third respondent has again come to the site along with fourth respondent on 08.03.2020 as field inspection and then sent a letter dated 05.05.2020 to the fourth respondent calling upon him to explain how the writ petitioner is entitled to the property, that there was no progress as the entire country was affected by Covid-19, that the writ petitioner inspite of his much efforts was not able to get patta for his property, that his application for patta has not been disposed of by the third respondent for more than five years, that therefore, the writ petitioner filed a writ petition in W.P.(MD)No.12731 of 2021 directing the third



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respondent to grant patta for the property in dispute and this Court vide order dated 28.07.2021 directed the writ petitioner to make a fresh representation to the respondents 3 and 4 and the third respondent was directed to forward the entire records to the fourth respondent within a period of two weeks from the date of receipt of a copy of that order and the fourth respondent was directed to conduct enquiry and pass final orders within a period of four weeks from the date of receipt of the records from the third respondent, that the writ petitioner in pursuance of the direction of this Court submitted a representation to the respondents on 06.08.2021, that the fourth respondent, after conducting enquiry, has submitted a report dated 30.09.2021 to the second respondent in favour of the writ petitioner, but the second respondent, without considering the reports submitted by the respondents 3 and 4 and without taking note of the documents produced by the writ petitioner, has passed the impugned order dated 18.11.2021 rejecting the writ petitioner's claim and that therefore, the writ petitioner was constrained to approach this Court invoking Article 226 of the Constitution of India.

4. Despite taking time for filing counter affidavit, the respondents have not chosen to file any counter affidavit.



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5. It is the specific case of the writ petitioner that the assessment of the property tax for the buildings available in the property was in the name of the writ petitioner's vendors and after his purchase, he applied and transferred the assessment vide order dated 29.10.2010 and that he had also transferred the electricity service connection and he has been paying the property tax and electricity consumption charges continuously. As rightly contended by the learned counsel appearing for the writ petitioner, the respondents have not disputed the above factum.

6. In the affidavit filed in support of the writ petition, the writ petitioner himself has stated that the property stands in the name of K.Muthusamy Muthiriyar in the 'A' register but he has no connection whatsoever with the property in dispute.

7. It is evident from the impugned order and the records submitted by the fourth respondent that the Town Survey No.2331/6 to an extent of 1.0.0803.0 sq.mt stands in the name of K.Muthusamy Muthiriyar in the 'A' register and in chitta and that the property in New Town Survey No.48 to an extent of 0.0241.0 sq.mt stands in the name of Joseph, S/o.Pitchai Pillai.



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8. The writ petitioner, in order to prove his case, has produced the copy of the settlement deed executed in favour of John Pillai dated 22.05.1957 and copy of the settlement deed executed by John Pillai in favour of his daughter Clara dated 25.08.2008 and the sale deed executed by the said Clara in favour of the writ petitioner dated 09.08.2010.

9. As rightly pointed out by the learned counsel appearing for the writ petitioner, in the settlement deed dated 22.05.1957, the property was shown to be in Town Survey No.2331/6A of Sengulam Village and in the subsequent settlement deed dated 25.08.2008, there was reference to the earlier Town Survey No.2331/6A and not New Town Survey No.48 of Sengulam Village and in the sale deed in favour of the writ petitioner dated 09.08.2010 also, there was reference to the very same Town Survey No.2331/6A and new Town Survey No.48 of Sengulam Village, Trichy Taluk. No doubt, in the above documents of titles, the extent of the property has been shown as 2594 sq.ft. of land along with the terrace house therein.

10. The writ petitioner has also produced the encumbrance



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certificate for the period from 01.01.1930 to 31.12.1956, 01.01.1959 to 31.12.1985 and 01.01.1986 to 26.04.2010, again for the period from 01.01.2020 to 25.11.2020 as claimed by the respondents. Admittedly, except the documents above referred, there was no reference to any other transactions. More importantly, as rightly contended by the learned counsel appearing for the writ petitioner, there was no reference to K.Muthusamy Muthiriyar or to Joseph Pillai, S/o.Pitchai Pillai.

11. As directed by the respondents 2 and 3, the fourth respondent has also taken a report from the Town Sub Inspector of Surveyor to the effect that the property shown to be in Sengulam Village, Municipality Old Ward No.8 Block No.25 Town Survey No.2331/6A is now in Ward W, Block No.42 and New Town Survey No.48 and that though the documents produced by the writ petitioner was referring to the Sengulam Village, the property therein is now under the limits of Varaganeri Village.

12. It is pertinent to note that the fourth respondent, after conducting enquiry and after getting records, has submitted a report to the second respondent through the third respondent recommending for deleting the



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name of Joseph, S/o.Pitchai Pillai and to issue patta in the name of the writ petitioner and the relevant portion of the report of the fourth respondent is extracted hereunder for better appreciation;

□ஆனால் மனுதாரர் கடந்த 1957-ஆம் ஆண்டிலிருந்து கிரையம் பெற்ற பத்திரம் பெற்றுள்ளார். மனுதாரர் மேற்படி இடத்தில் சுமார் 64 ஆண்டுகளுக்கு மேலாக கெட்டிமெத்தை வீடு உள்ளது. அதனை மனுதாரர் வாடகைக்கு விட்டு அவரது வசம் உள்ளது. மேற்படி கிராமத்தில் திரு.பிச்சைப்பிளை மகன் ஜோசப் என்பாவர் பற்றி அறிய முடியவில்லை என கிராம நிர்வாக அலுவலர் வாக்குமூலம், வருவாய் ஆய்வர் அறிக்கை செய்துள்ளார். இது குறித்து சம்மந்தப்பட்ட கிராமத்தில் நோட்டீஸ் ஒட்டி விளம்பரம் செய்யப்பட்டதில் எவ்வித ஆட்சேபணை ஏதும் வரவில்லை என வருவாய் ஆய்வரின் அறிக்கையில் தெரிவிக்கப்பட்டுள்ளது.

மேலும் கிராம நிர்வாக அலுவலர், வருவாய் ஆய்வாளர் மற்றும் மண்டல துணை வட்டாட்சியர் நகரளவை பதிவேட்டில் தாக்கலாகியுள்ள பிச்சை பிள்ளை மகன் ஜோசப் பெயரினை நீக்கி மனுதாரர் பெயரில் பட்டா மாற்றம் செய்ய பரிந்துரை செய்துள்ளார்.

எனவே மேற்படி விசாரணை ஆவணங்கள் மற்றும் மனுதாரர் சமர்ப்பித்த ஆவணங்கள் அடிப்படையில் தற்போதைய நகரளவை பதிவேட்டில் வரகனேரி கிராமம், வார்டு -W, பிளாக்-42, நகரளவை எண்.48-ல் பரப்பு 0.0241.0



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ச.மீ பிச்சை மகன் ஜோசப் என தாக்கலாகியுள்ள
பெயரினை நீக்கம் செய்து திரு.அந்துவான் லாரன்ஸ்
என்பவர் பெயரினை தாக்கல் செய்ய பரிந்துரை
செய்து இத்துடன் விசாரணை
ஆவணங்களை இணைத்தனுப்பிள்ளேன் என்பதையும்,
பார்வையில் காணும் அனைத்து ஆவணங்களும்
மீள இத்துடன் இணைத்தனுப்பியுள்ளேன் என்பதையும்
பணிவுடன் தெரிவித்துக் கொள்கிறேன்.□

13. No doubt, the second respondent has passed a lengthy order running to more than three pages but he has reiterated the case of the Revenue Department again and again and by referring to the reports of the respondents 3 and 4, has rejected the claim of the writ petitioner, without any discussion. The only reason assigned by the second respondent for rejecting the claim of the writ petitioner is that there was no entries in the encumbrance certificate prior to the year in 1957 and the writ petitioner has not produced any documents showing his ownership over the property in dispute from the resettlement of the year 1927.

14. Even assuming for arguments sake that the property in dispute belongs to Government, then any person, who is in occupation of the said



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property for more than 30 years continuously and against the interest of the Government, can very well claim the ownership over the property in dispute by adverse possession. But in the case on hand, the writ petitioner, even according to the respondents 3 and 4, has produced documents from the year 1957 till 2010 purchase made by the writ petitioner to show that the property in dispute was owned by the writ petitioner's vendor's predecessors in title. Moreover, the fourth respondent in his report has specifically observed that the terrace house is available in the property in dispute and that the writ petitioner has been in possession and enjoyment of the property through his tenancy.

15. In the report submitted by the fourth respondent, he has referred about the report given by the Village Administrative Officer and Revenue Inspector that the whereabouts of Joseph, S/o.Pitchai Pillai was not known and despite affixing of notice in the village, no objection has been received. It is not the specific case of the revenue officials that the legal heirs of K.Muthusamy Muthiriyar or the legal heirs of Joseph have raised claim over the property in dispute.



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16. It is pertinent to note that the respondents 3 and 4 in their reports have recommended for the deletion of Joseph, S/o.Pitchai Pillai and for issuance of patta in favour of the writ petitioner but the second respondent in the impugned order has not assigned any reason for not accepting/rejecting the reports of the respondents 3 and 4.

17. Considering the entire facts and circumstances of the case and also the reason assigned for rejecting the writ petitioner's claim and taking note of the documentary evidence available on record and the reports of the respondents 3 and 4, this Court has no hesitation to hold that the impugned order of the second respondent dated 18.11.2021 cannot be sustained and the same is liable to be quashed.

18. In the result, this Writ Petition is allowed and the impugned order dated 18.11.2021 is hereby quashed. The respondents are directed to delete the name of Joseph, S/o.Pitchai Pillai and to grant patta in the name of the writ petitioner within a period of one month from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

30.09.2024



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NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The District Collector,
Tiruchirapalli,
Tiruchirappalli District.
2. The District Revenue Officer,
O/o.The District Revenue Officer,
Tiruchirappalli,
Tiruchirappalli District.
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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
W.P.(MD)No.22035 of 2021
and
W.M.P.(MD)No.18640 of 2021

Dated : 30.09.2024