

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.8619 of 2015
and
M.P.Nos.1 and 2 of 2015

Pattammal

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
Kancheepuram District,
Kancheepuram.
4. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram District.
5. The Inspector of Police,
B-3, Taluk Police Station,
Taluk Office Compound,
Kancheepuram.
6. The Inspector of Police,
Land Grabbing Cell,
Superintendent of Police Office Building,
Kancheepuram.
7. S.Natarajan
8. M.Harish Kumar
9. S.Deeraj Kumar
- 10.N.Sandeep Kothari.

... Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, directing the fourth respondent to modify the revenue

records in respect of the property, situated at No.124, Vizakandikuppam Village, Kancheepuram Taluk and District, comprised in S.No.64/1 admeasuring 0.27 cents and in S.No.65/2 admeasuring 0.23 cents and in S.No.113/2, admeasuring 0.24 cents and in S.No.128/3 admeasuring 0.42 cents and in S.No.91/1B admeasuring 0.74 cents and in S.No.110/7B and 110/8A admeasuring 0.05 cents and in S.No.130/1B admeasuring 0.04 cents after conducting an enquiry as per the provisions of the Patta Pass-Book Act, 1983.

For Petitioner : Mr.S.Jayakumar

For Respondents : Mr.R.Ravichandran,
Additional Government Pleader
for RR1 to 6
Mr.C.Hanumantha Rao for RR8 to 10
No appearance for R-7

ORDER

Heard. This writ petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus, directing the fourth respondent to modify the revenue records, relating to the property situated at No.124, Vizakandikuppam village, Kanchipuram Taluk and District, after conducting an enquiry, as per the provisions of the Patta Pass-Book Act, 1983.

2. It has been stated that the subject property is a separate property of the husband of the petitioner, namely, Kathirvelu. He had died intestate, during the year, 1972, leaving behind the petitioner and his son, by name Subramaniam, born through the first wife and her husband. While so, Subramaniam had alienated the subject property, without the consent and knowledge of the petitioner. Therefore, the petitioner had filed a suit, on the file of the District Munsif Court, Kanchipuram, for partition and separate possession of her share of the property, in O.S.No.416 of 1973. During the pendency of the said suit, one Perumal and his brothers had purchased a portion of the property left behind by the husband of the petitioner. The suit filed by the petitioner had been decreed and the trial court had allotted half share in the property, in favour of the petitioner, by a preliminary decree, dated 29.10.1975. No appeal or revision or review had been filed against the said preliminary decree. Thereafter, a final decree had been passed, in respect of the property in question, on 28.4.1980. The said final decree had not been challenged by the defendants in the suit. However, Perumal, who had also defended the suit and who had purchased the property from Subramaniam,

had effected a partition, on 15.3.1976, amongst his family members, illegally.

3. It has been further stated that, after the death of Perumal, his wife Dhanakotiammal, the sole surviving heir of Perumal, had sold the subject property to one Srinivasa Naicker, on 27.11.1977. Srinivasa Naicker died on 10.8.1981. While so, the petitioner had filed E.P.No.1107 of 1991, for delivery of possession of the property in question. The trial court had ordered the delivery of possession of the property, on 24.8.1992, and it had also been recorded, on 11.9.1992.

4. It had been further stated that the legal heirs of the said Srinivasa Naicker had filed a suit, in O.S.No.1085 of 1992, on the file of the Principal District Munsif Court, Kanchipuram, praying for a declaration that the subject property belongs to them and for a consequential injunction, restraining the petitioner from interfering with the subject property. The said suit had been dismissed, by a well considered judgment and decree, dated 29.2.1996. No appeal or revision against the said judgment and decree had been preferred by the legal heirs of the Srinivas Naicker. However, the partition deed had been registered, in which the subject property had been allotted to one Chinnammal. She had bequeathed the subject property, in favour of her son S.Nataraj, on 10.5.2005. The legal heirs of Srinivasa Naicker had filed an appeal, in A.S.No.54 of 1996, before the Additional District Judge-II, Fast Track Court, Kanchipuram. The said appeal had been dismissed, for default, on 2.12.2002. S.Nataraj, son of Chinnammal, had filed a suit, in O.S.No.301 of 2005, on the file of the District Munsif Court, Kanchipuram. The said suit had been dismissed, as not pressed, on 30.8.2006. However, S.Nataraj, along with his brother, had sold the subject property to one Deerajkumar, by way of a sale deed registered in the office of the Joint Sub Registrar-II, Kanchipuram.

5. It has been further stated that Kasi Naicker @ Kasi Viswanathan had purchased the land, admeasuring 0.24 acres, comprised in S.No.113/2 and 0.42 acres of the land, comprised in S.No.128/3, forming part of the larger extent of the land, which had belonged to the deceased husband of the petitioner, from K.Subramaniam. The alienation of the lands had been challenged by the petitioner, in O.S.No.416 of 1973. While so, the legal heirs of Kasi Naicker, namely, Varadammal, had filed a suit, in O.S.No.1160 of 1992, before the Additional District Munsif Court, Kanchipuram, praying for a declaration that the subject property belongs to her. The suit had been dismissed for default, on 24.9.1996. However, Varadammal had sold the property to one K.A.Selvaraj, by way of a sale deed, dated 16.12.2005.

Thereafter, Varadammal had filed an application to set aside the dismissal of the suit, after a delay of 3193 days. The said application, in I.A.No.1226 of 2005, filed in O.S.No.1160 of 1992, had been dismissed, on 26.7.2006. While so, K.A.Selvaraj had sold the subject property to one M.Harish Kumar, by way of a sale deed, dated 12.9.2006. K.A.Selvaraj had sold the other portion of the property, said to have been purchased by him, to N.Sandeep Kothari, by way of a sale deed, registered as document No.4821/2006, in the office of the Joint Sub Registrar-II, Kanchipuram.

6. It has been further stated that the properties belonging to the deceased husband of the petitioner, had been sold away to various persons, fraudulently, with the connivance of the fourth respondent, to the detriment of the petitioner. In such circumstances, the petitioner has filed the present writ petition, praying for a direction against the fourth respondent, directing him to modify the revenue records relating to the property in question, in favour of the petitioner, after conducting a detailed enquiry, as per the provisions of the Patta Pass-Book Act, 1983.

7. The learned counsel appearing on behalf of the respondents had submitted that the relief prayed for by the petitioner, in the present writ petition, cannot be granted, as the subject matter of the writ petition is of a civil nature. Further, a number of civil suits had been filed, by various persons, in respect of the property in question. Further, many disputed questions of fact have also arisen amongst the parties concerned. In such circumstances, this Court would not be the appropriate forum for the petitioner to seek her remedies, by invoking the writ jurisdiction of this Court, under Article 226 of the Constitution of India. Therefore, the writ petition is liable to be dismissed, in limine.

8. In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on perusal of the records available, this Court is of the considered view that the relief prayed for by the petitioner, in the present writ petition, cannot be granted by this Court, as it is of a civil nature. It is noted that a number of civil suits had been filed, by a number of persons, in respect of the property in question. Even though it has been claimed by the petitioner that all the civil suits had ended in her favour, this Court would not be the appropriate forum to grant the relief, as prayed for by the petitioner. It is for the petitioner to seek her remedies, if any, before the appropriate forum, as the claims are of a civil nature. Further, various

disputed questions of fact have been raised by the parties concerned, in the present writ petition. As such, this Court finds it appropriate to dismiss the writ petition. Hence, the writ petition stands dismissed. No costs. However, it goes without saying that it may be open to the petitioner to seek her remedies, if any, before the appropriate forum or the authority, in the manner known to law. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The District Collector,
Kancheepuram District, Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District, Kancheepuram.
3. The Revenue Divisional Officer,
Kancheepuram District, Kancheepuram.
4. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram District.
5. The Inspector of Police,
B-3, Taluk Police Station,
Taluk Office Compound, Kancheepuram.
6. The Inspector of Police,
Land Grabbing Cell,
Superintendent of Police Office Building,
Kancheepuram.

+lcc to Mr.S.Jayakumar, Advocate, S.R.No.40891
+lcc to Mr.C.Hanumantha Rao, Advocate, S.R.No.40288
+lcc to the Government Pleader, S.R.No.41319

W.P.No.8619 of 2015

SSK(CO)
CA(27/07/2016)