

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9983 of 2003

1. K.Panchavarnam
2. S.P.R.Muthulakshmi

.. Petitioners

Vs.

1. The Tahsildar, Madurai-South, Madurai.

2. A.Vijayan
3. A.Andi
4. M.Ayyanar
5. K.Mani
6. V.Sundararamamurthy
7. V.Kanagasubramanian
8. K.Palaniandi
9. S.Selvam
10. C.Mahalingam
11. M.Ayyanar
12. M.Veluchamy
13. K.Sakthivel
14. O.Palaniandi
15. M.Palani
16. N.Andi
17. C.Kandan
18. C.Murugan
19. M.Samaiyan
20. P.Samayan
21. S.Mohan
22. S.Murugan
23. Attukkaran @ Palani
24. A.Sangili

(Respondents 2 to 24 impleaded as per order dated 25.08.2003 in W.P.M.P.No.21945 of 2003)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the first respondent in connection with his impugned order R.T.R.No.799/2001-02, dated 14.12.2002, quash the same and consequently direct the first respondent to restore the earlier order made in

proceedings of the first respondent in R.T.R.No.799/2001-02, dated 24.05.2002.

For Petitioners : Mr.M.Sriram
For Respondents : Mr.P.Sanjay Gandhi, Addl.G.P. for R-1
Mr.S.S.Sundar for RR-2 to 24

ORDER

The Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the first respondent in connection with his impugned order R.T.R.No.799/2001-02, dated 14.12.2002, quash the same and consequently direct the first respondent to restore the earlier order made in proceedings of the first respondent in R.T.R.No.799/2001-02, dated 24.05.2002.

2. It is the case of the petitioners that the land in Survey No.109/2 to an extent of 88 cents in Ayyan Pappakudi Village, Madurai, was originally purchased by one V.K.A.Ponnusamy Pillai on 21.01.1956 in a Court auction conducted by the Official Receiver of Madurai. After observing the usual formalities, the sale was confirmed and registered on 10.10.1958 as Document No.4341 on the file of the Joint Sub-Registrar IV, Madurai. The said V.K.A.Ponnusamy Pillai died in 1967, and after his death, his son V.K.A.P.Manoharan sold the said land to Muthulakshmi Ammal, wife of Ramasamy Kone, in and by registered sale deed on 29.09.1967 as full owner, who in turn, out of the said 88 cents, sold 12 cents to one Seeni Thevar and the said Muthulakshmi Ammal is owning and enjoying an extent of 76 cents and 12 cents are being enjoyed by Tmt.Panchavarnam Ammal from their respective date of purchase of the land in question. It is the claim of the first petitioner that she purchased 1 acre and 24 cents in Survey No.109/5 and owning an extent of 1 acre and 36 cents in Survey No.109/2 and 109/5. The lands in question which were owned by the petitioners, were updated in the Revenue Registers, after the petitioners produced necessary documents. The petitioners are paying the Revenue outgoing. While so, 23 persons made a claim to the Tahsildar (South), Madurai, in respect of the following Survey Numbers of Ayyan Pappakudi Village:

Sl. No.	Survey Number	Acre/cent
1	S.No.109/2	0.88
2	S.No.191/5, B, C	1.04
3	S.No.265/3A, B	0.61
4	S.No.318/6	0.20
5	S.No.325/4	1.72

Sl. No.	Survey Number	Acre/cent
6	S.No.417/1A to 1z	1.25
7	S.No.351/2A and 2B	5.00
8	S.No.422/1A to 1AB	4.52
9	S.No.198/4	1.86
10	S.No.109/5	1.24

3. It is the further case of the petitioners that S.No.109/2 and 109/5 to an extent of 0.88 cents and 1 acre 24 cents, are the lands of the petitioners shown in Serial Nos.1 and 10 above. The petitioners claim that the lands are recorded as 'Madayan Maniyam' lands in ancient records during British regime and the claimants are descendants of those Madayan. Various people encroached the lands and obtained patta during the revision of Registry by using their possession. The Tahsildar, on receipt of the application, issued notice in No.R.T.R.No.799/2001, dated 12.11.1991 to nearby 14 persons and immediately on receipt of the notice, the petitioners submitted their objections and appeared before the Tahsildar through counsel and produced all relevant records and also made legal submissions. The Tahsildar, vide his order in R.T.R.No.799/2001-02, dated 24.05.2002, with a copy marked to the petitioners, accepted the claim of the petitioners under 'Madayan Maniam' and on perusal of the objections and documents, the Tahsildar excluded the lands of the petitioners and directed joint registering of the names of the claimants in respect of the other lands. The petitioners' lands have been deleted in these proceedings and they were allowed to enjoy the properties. No appeal or revision was filed before the authorities concerned as against the above said order dated 24.05.2002 passed by the Tahsildar.

4. While so, the petitioners received notice on 13.02.2003 and another order in R.T.R.No.799/2001-02, dated 14.12.2002 from the Tahsildar (South), Madurai, was passed without referring to any of the petitioners' objections, by allowing the claim of the persons under 'Madayan Maniam' and it was observed in the said order that the petitioners have not raised any defence or filed any documents in support of their defence. It is further stated in the said order that the petitioners have not cared to participate in the enquiry. It is the grievance of the petitioners that notice of enquiry was sent to incorrect address and before even the recipients received the notice of the Tahsildar, orders have been passed without proper enquiry. Hence, the petitioners have filed this Writ Petition for the above relief.

5. The only submission made by the learned counsel for the petitioners is that when already an order dated 24.05.2002 was passed by the first respondent in favour of the petitioners, the first respondent ought not to have passed the subsequent order, dated 14.12.2002 in respect of the same parties, by simply allowing the claim of the parties. If at all the respondents 2 to 24 or any other private parties are aggrieved by the earlier order, dated 24.05.2002, they should have filed appeal or revision before the appropriate authority and hence, the petitioners have sought for quashing the said order dated 14.12.2002.

6. This Court also heard the submissions of the learned Additional Government Pleader appearing for the first respondent and also the learned counsel for the respondents 2 to 24 on the above aspects.

7. This Court finds some force in the claim of the petitioners. When the fact remains that, already, there is an order dated 24.05.2002 in favour of the petitioners, by excluding the lands of the petitioners, the subsequent order dated 14.12.2002 passed in favour of the respondents 3 to 24, should not have been passed, without taking into consideration the factual aspects of the matter and the observations made in the earlier order and hence, the subsequent order dated 14.12.2002 is liable to be set aside.

8. Hence, the impugned order dated 14.12.2002 passed by the first respondent-Tahsildar is set aside. The respondents 2 to 24 are at liberty to file an appeal/revision before the competent authority as against the earlier order, dated 24.05.2002 passed by the first respondent-Tahsildar. The Writ Petition is disposed of accordingly. No costs.

cs

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Copy to

The Tahsildar, Madurai-South, Madurai.

+ 1 cc to Mr.T.R.Rajaraman,Advocate, SR 8730

+ 1 cc to M/s.M.Sriram,Advocate, SR 8606

sns(co)

prk7/3

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