

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.798 of 2016
and C.M.P.No.10503 of 2016

1.N.Mohan
2.N.Kandasamy

.. Appellants

Vs.

- 1.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
- 2.The Revenue Divisional Officer,
Chengalpattu Taluk,
Kancheepuram District.
- 3.The Tahsildar,
Chengalpattu Taluk,
Kancheepuram District.

4.K.Anitha

.. Respondents

PRAYER : Writ Appeal filed under Article 15 of Letters Patent against the order dated 11.03.2016 made in W.P.No.35714 of 2015. Writ Petition filed under Article 226 of the Constitution of India praying on issuance of a Writ of Certiorarified Mandamus to call for the records and to quash the order passed by the 1st respondent in his proceeding Na.Ka. 21395 of 2012/N4 dated 29.1.2014 and to restore the Patta stands in the name of the petitioners in Patta No.346 in respect of the agricultural lands comprised in Survey Nos.219/1 219/2 219/4 219/5 219/6 and 217/3 totally to an extent of 1 Acre 57 cents situated at No.43Padur Village Thiruporur Taluk Kancheepuram District and direct the respondents 1 to 3 to collect the Kist from the petitioners in respect of the agricultural lands comprised in Survey Nos.219/1 219/2 219/4 219/5 219/6 and 217/3 totally to an extent of 1 Acre 57 cents situated at No.43 Padur Village Thiruporur Taluk Kancheepuram District.

For Appellants : Mr.K.Mahalingam

For Respondent Nos.1 to 3: Mr.P.S.Sivashanmugasundaram
Special Government Pleader

For Respondent No.4 : Mr.Anand Venkatesh

J U D G M E N T

[Judgment of the Court was delivered by HULUVADI G. RAMESH, J.]

Heard the learned counsel appearing for the appellants and the learned Special Government Pleader appearing for the respondents 1 to 3 as well as the learned counsel appearing for the fourth respondent.

2. It appears that the erstwhile vendors, namely, Mrs.Mehrunnisa and her son Sadiq Basha have executed a sale deed on 26.11.1986, in favour of the appellants, which has been registered as Document No.2609 of 1986 on the file of the Sub-Registrar, Thirupporur and patta was also issued in favour of the appellants on 04.02.1999. Based on an ex-parte decree dated 11.11.1989 passed by the learned VI Assistant City Civil Court, Chennai, in O.S.No.8667 of 1985 and an order dated 21.12.2009 made in W.P.No.21450 of 2008, the fourth respondent, who is said to have been claiming to be the Power of Attorney Agent approached the third respondent for cancellation of patta, which stands in favour of the appellants, as if somebody has transferred the patta illegally without there being any registered documents. The appellants also filed a suit in O.S.No.195 of 2011 on the file of District Munsif Court, Chengalpattu and they have also filed a Writ Petition before this Court in W.P.No.35714 of 2015.

3. The learned Single Judge, by order dated 11.03.2016, observed that the petitioners have already filed a suit in O.S.No.195 of 2011 on the file of District Munsif Court, Chengalpattu, in respect of the property, raising the same issue and the said suit is pending before the Court below and that now, the Writ Petition has been filed by the petitioners, on the same set of allegations. It is well settled legal principal, while exercising power under Article 226, this Court cannot conduct any roving enquiry on the disputed questions of facts. Since there is disputed questions of fact involved in the Writ Petition, the appellants/petitioners have to work out their remedy only in the pending civil suit. Moreover, there cannot be two separate proceedings for the same issue. As against which, the appellants are before this Court.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the revenue proceedings are pending before the Tahsildar and the Revenue Divisional Officer in respect of cancellation of patta in favour of the appellants, who are the purchasers of the property from one of the undivided share holder. The contention of the appellants is that they have to be impleaded in the suit **in O.S.No.159/86*** and make a prayer before the Civil Court before conclusion of the suit for **Declaration*** and cancellation of patta, which is in favour of the undivided share holder, also to be reconsidered.

5. In the circumstances, the appellants are very well impleaded in the suit and they can also make additional prayer before the Civil Court for cancellation of patta. It is also made clear, however, the cancellation of patta, if any, would be subject to the result of the decree to be passed by the Civil Court.

6. Since there is no remedy available by way of revision against the order of the Revenue Divisional Officer for cancellation of patta, it is to be agitated only before the Civil Court as per G.O.(Ms).No.409 dated 02.07.2008 issued by the Revenue SSI(1) Department, which cites the order made in W.A.No.1342 of 1994 and C.M.P.No.15872 of 1994 dated 26.10.1994, wherein this Court has observed that the Revenue Forums have no jurisdiction to decide either the right or title of land in patta transfer cases and it is for the Civil Courts to decide such issues made.

7. The Writ Appeal is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)
dt. 25.07.2016

Corrected as per being mentioned
order of this Court dated 8.08.2016
in WA.NO.798/2016

Sd/-
Assistant Registrar(CS III)
dt. 16.08.2016

//True Copy//

Sub Assistant Registrar

sri

To

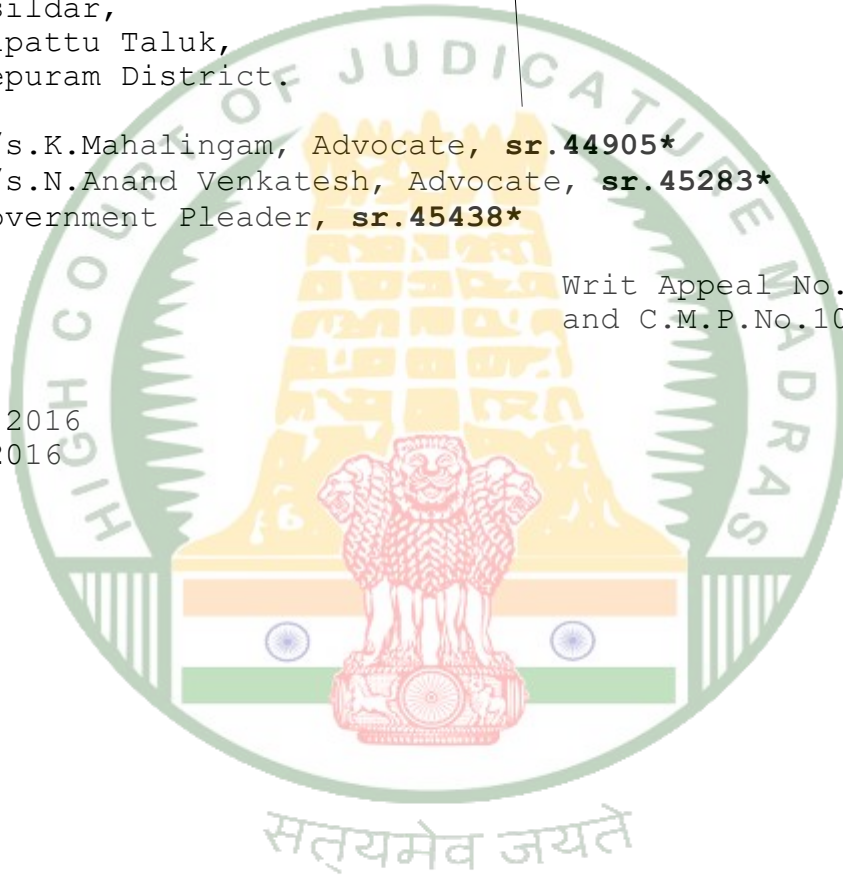
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Chengalpattu Taluk,
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To be substituted to the
order already despatched
on 1.08.2016

- 1 cc to M/s.K.Mahalingam, Advocate, **sr.44905***
- 1 cc to M/s.N.Anand Venkatesh, Advocate, **sr.45283***
- 1 cc to Government Pleader, **sr.45438***

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ssk co
kra 25.07.2016
Eu 16.08.2016



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