BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition(MD)No.5333 of 2015
and
M.P(MD)Nos.1 and 2 of 2015
and
W.M.P(MD)No.2814 of 2016

Thiru Minor alias Kandasamy
S/o Nagalingam ambalam
Koodalor Group,
Thiruvadanai Taluk,
Ramanathapuram District.
... Petitioners

Vs.

1.The District Revenue Officer,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram.

3.The Tahsildar,
Thiruvadanai Circle,
Ramanathapuram.

4.Murugaiya Thevar,

5.Boominathan ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondents 1 and 2 in Pa.Mu. 61584/2013(B6) dated 30.01.2015 and Moo.Mo.A5/4731/2012 dated 30.09.2012 respectively and quash the same.

For Petitioner : Mr.C.Jeyaprakash

For Respondents : Mr.S.Kumar A.G.P. For R1 to R3

Mr.C.Venkateshkumar for
M/s Ajmal Associates for R5
No representation for R4

ORDER

Challenging the impugned order passed by the respondents 1 and 2 in Pa.Mu. 61584/2013(B6) dated 30.01.2015 and Moo.Mo.A5/4731/2012 dated 30.09.2012 respectively, the petitioner has come to this Court.

2.The admitted case of the petitioner in this writ petition are as follows:-

The petitioner obtained a sale deed for an extent of 49 cents in survey No.305/1B from the respondents 4 and 5 and another son of fourth respondent. This sale deed is unregistered. The petitioner contends that based on the unregistered sale deed dated 15.11.1989, he was able to get patta for the land, by virtue of the order passed by the Tahsildar on 08.01.1990. The petitioner submits that he has obtained a registered sale deed from the fourth respondent on 14.12.1998. The petitioner further submits that the fourth respondent, disputing the sale deed dated 14.12.1998, alleged to have been executed by him in favour of the petitioner, made an application before the second respondent for cancellation of patta. The second respondent has thereafter conducted an enquiry and cancelled the patta issued on 08.01.1990, by an order dated 03.09.2012. Thereafter, the revision petition was filed before the first respondent and the first respondent has confirmed the order of the second respondent, by an order dated 03.11.2012. Though the petitioner has filed a suit in O.S.No.45 of 2013 on the file of the District Munsif Court, Thiruvadanai and the same is pending, the petitioner has also preferred the above writ petition alleging that the first respondent has mechanically dismissed revision petition filed by the petitioner and that the respondents 1 and 2 have no jurisdiction or authority to decide the question of title in the enquiry conducted in relation to the grant of patta. The petitioner also submits that the patta in this case was granted in favour of the petitioner in the year 1990 and that the cancellation of the same, nearly after 22 years, is wholly illegal.

3. Having regard to the admitted fact that the petitioner could not claim title based on the unregistered sale deed dated 15.11.1989 and that the subsequent sale deed alleged to have been executed by the fourth respondent on 14.12.1998 is seriously disputed by the fourth respondent, this Court is of the opinion that the patta that was granted in favour of the petitioner by the second respondent on 08.01.1990 is not proper as the petitioner is neither an owner nor a person, who is entitled to claim any right before the Revenue Officials on the basis of an unregistered sale deed. Hence, this Court hold that the order of the second respondent dated 08.01.1990 is unsustainable, illegal and opposed to settled principles of law. There is no indication that the order dated 08.01.1990 for the issuance of patta in favour of the petitioner in 1990 is, after holding an enquiry, giving

opportunity to the persons concerned. When the order of the second respondent is held to be improper, it is necessary to be cancelled. The status-quo as on that date should be restored. The order passed by the second respondent and confirmed by the first respondent clearly indicates that the first respondent, by the impugned order, has restored the status-quo as on the day, prior to the order of the third respondent granting patta in favour of the petitioner, which has now been held as unsustainable and illegal. Hence, the writ petition is dismissed, as there is no reason to interfere with the order of the first respondent confirming the order of the second respondent. Since it is brought to the notice that the petitioner has already filed a civil suit in O.S.No.45 of 2013 on the file of the District Munsif Court, Thiruvadanai, it is necessary to reserve the right of the petitioner to agitate the question of title, which shall be considered by the civil Court uninfluenced by any observations or findings of the revenue officials, namely, the respondents 1 and 2 in the impugned proceedings.

4. With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To
1.The District Revenue Officer,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram.

3.The Tahsildar,
Thiruvadanai Circle,
Ramanathapuram.

+1cc to Mr.C.Jeyaprakash, Advocate SR.No.41768
+1cc to M/s.Ajmal Associates, SR.No.41454

skn
sm:KBM:23.08.2016:3P/6C

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