



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

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THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.(MD) No.9834 of 2016

and

W.M.P.(MD)No.7775 of 2016

J.Caroth Benham Saron Jefferson and
Julie Jefferson,
Rep. By power agent,
J.Eliyeser Joseph

.. Petitioner

vs.

1.The District Revenue Officer,
O/o.The District Revenue Officer,
Tirunelveli District, Tirunelveli.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Cheran Mahadevi, Tirunelveli District.

3.The Tahsildar,
Taluk Office,
Nanguneri Taluk & Post,
Tirunelveli District.

4.Mr.Murugesan

.. Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents 1 to3 to issue separate patta in the name of Petitioners Principal in respect of property situated in S.Nos.52/1 and 52/2 in Rajakkamangalam Village, Nanguneri Taluk, Tirunelveli District, by considering the Sale Deed made in Document No. 3076/2005, dated 23.11.2015 on the file of the Sub Registrar office, Vallioor, in the light of the Judgement and Decree, dated 29.10.2015 made in O.S.No.53 of 2010 on the file of the Honble Principal District Munsif -Cum-Judicial Magistrate Court, Nanguneri, within a stipulated time.

For Petitioner : Mr.M.Saravanakumar

For R1 to R3 : Mr.S.Kumar

Additional Government Pleader



ORDER

The petitioner has preferred the instant writ petition praying for passing of an order by this Court by directing the respondents 1 to 3 to issue separate patta in the name of his Principal, in respect of property situated in S.Nos.52/1 and 52/2 in Rajakkamangalam Village, Nanguneri Taluk, Tirunelveli District, by considering the Sale Deed (Bearing Document No.3076/2005), dated 23.11.2015 on the file of the Sub Registrar office, Vallioor, in the light of the Judgement and Decree, dated 29.10.2015 passed in O.S.No.53 of 2010 by the learned Principal District Munsif-Cum-Judicial Magistrate Court, Nanguneri, within a time stipulated by this Court.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3. To avoid an avoidable delay and also, since no adverse order is passed by this Court in the present writ petition, notice to the third respondent is dispensed with by this Court.

3.According to the petitioner, the land originally belonged to one P.K.Thiruvengadam, S/o.Krishnapillai, Melapnnai, Pattarpuram, Iraippurvari Villalge, Nanguneri Taluk, Tirunelveli District. His Principal Caroth Benham Saron Jefferson and his wife Julie Jefferson, purchased the land measuring a total extent of 15 acres and 55 cents. Further, the land in Survey No.52/1 if of extent of 10 Acre 88 Cents and in Survey No.52/2 is of an extent of 4 Acres 67 Cents by virtue of the sale deed dated 23.11.2005. After the purchase of said lands, we applied for patta before the Tahsildar, Nanguneri with the request to include my name in the joint patta. Based on the sale deed, the name of Caroth Benham Saron Jefferson and his wife Julie Jefferson, were included in the Joint Patta. After purchase, they have to be put up fence and they have been in effective physical possession and enjoyment of the property.

4.The stand of the petitioner is one Perumal created a forged deed with false power of attorney and made a Petition before the Tahsildar for sub division in respect of my property and the same was considered by the Tahsildar, Nanguneri and made subdivision of the property in S.No.52/1 and 52/2 in Rajakkamangalam Village, Nanguneri Taluk as S.Nos. 52/1B and 52/2B without giving any notice to the petitioner. Therefore, the petitioner filed a Writ Petition before this Hon'ble Court in W.P.(MD)No.6053/2010 before this Court and on 30.04.2013, this Court had allowed the Writ Petition and restored the original entry available prior to the correction made by the proceedings, dated 22.09.2009 and further directed the Tahsildar, Nanguneri to issue notice to the parties and to pass appropriate orders on merits in accordance with law.



The Tahsildar has not passed any orders till such time and per contra, the Tahsildar made another subdivision in the name of one Mr.S.Murugesan, without giving notice to the petitioner (being the power agent of Caroth Benham Saron Jefferson and his wife Julie Jefferson).

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5.The version projected by the petitioner is that the fourth respondent/Murugesan purported to have projected an application before the third respondent/Tahsildar, Nanguneri Taluk, for effecting sub division and without scrutinising the documents produced by the fourth respondent and without giving any notice to the petitioner, the Tahsildar had made sub Division on 18.05.2010 in Survey No.52/1A2 and 52/2A1. Aggrieved over the same, the petitioner filed an appeal before the second respondent/Revenue Divisional Officer, Cheranmahadevi, on the ground that the 4th Respondent with a connivance of the Village Administrative Officer and surveyors included his father name in the Patta and further he has not produced the parent deed from whom his father was purchased the property and further stated that the schedule of the property obtained by the fourth Respondent is middle of my property and therefore, the sale deed produced by the fourth Respondent is bogus one. However, the second respondent/ Revenue Divisional Officer rejected the petitioner's appeal by virtue of an order, dated 16.05.2012 (signed on 28.05.2012) inter alia stating that only based on the out come of the suit in O.S.No.53 of 2010, action could be taken based on the request of the petitioner. The petitioner filed a Revision as against the order, dated 16.05.2012 before the first respondent/District Revenue Officer, Tiurnelveli District, on 02.06.2012 and the same was remitted to the third respondent/Tahsildar, Nanguneri, to pass appropriate orders, as per the orders of this Court passed in W.P. (MD)No.6053 of 2010.

6.The grievance of the petitioner is that the fourth respondent is not a party to W.P.(MD)No.6053 of 2010 and in fact, the first respondent passed an order in a mechanical manner by remitting the matter to the third respondent.

7.It comes to be known that the petitioner filed W.P(MD) No.14671/2014 with the prayer to quash the order passed by the first Respondent in Na.Ka. Aa 2/ See. Ma.No.9/13, dated 01.08.2014 and consequently to direct the third Respondent to cancel the subdivision made in S.No.52/1 and 52/2 in Rajakkamangalam Village, Nanguneri Taluk as S.Nos. 52/1A2 and 52/2A1 infavour of fourth Respondent and this Court was pleased to grant interim order and ordered notice of motion and the same is pending.

8.It is to be borne in mind that the learned Principal District Judge cum-Judicial Magistrate, Nanguneri, passed a Judgment in O.S.No.53 of 2010, on 29.10.2015 and in fact, the trial Court had categorically observed the following:-



"A perusal of above evidence would reveal the fact that the defendant was aware of existence of Ex.A1 to A5 even during the time of execution of Ex.B1 but the defendant has not cared to trace the title of the suit property. Further he has also categorically admitted except Ex.B1 to B3 there are no documents to show the right and ownership of the property. The revenue official has also deposed that it is not clear as to how Ex X1 and X2 were issued in the name of defendant's father without any proper proceedings on their side. The Plaintiff's contention that the defendant father without any right and tile has executed the settlement deed and the documents created there upon on the basis of the settlement deed is not valid and cannot be taken into consideration is acceptable as the defendant has failed to establish the genealogy devolution of the property and the defendants possession and enjoyment over it with valid oral and documentary evidence".

9.The primordial plea advanced on behalf of the petitioner before this Court is that, in view of the Judgment of the learned Principal District Munsif-Cum-Judicial Magistrate, Nanguneri, in O.S.No.53 of 2010, dated 29.10.2015, the official respondents should review their own order, as per the orders made by this Court in W.P.(MD)No.6053 of 2010 and to issue patta for the property purchased by the petitioner (Power Agent), by considering the sale deed, dated 23.11.2015.

10.In response, the learned Additional Government Pleader appearing for the respondents 1 to 3 informs this Court that the official respondents would pass necessary orders, if reasonable time is provided to them, by this Court.

11.In view of the fact that the petitioner only seeks a limited relief in the writ petition viz., for passing of an order by this Court in directing the respondents 1 to 3, to issue separate patta in the name of the petitioner's Principal, in respect of the property situated in S.Nos.52/1 and 52/2 in Rajakkamangalam Village, Nanguneri Taluk, Tirunelveli District, by considering their sale deed, dated 23.11.2015 (vide Document No.3076/2005), on the file of the Sub Registrar Office, Valliyur in the teeth of Judgment and Decree, dated 29.10.2015, passed in O.S.No.53 of 2010, by the learned Principal District Munsif-Cum-Judicial Magistrate, Nanguneri, this Court, without delving deep into the merits of the matter at this stage, simpliciter, to prevent an aberration of justice and to promote substantial cause of justice, directs the second respondent/Revenue Divisional Officer, Cheran Mahadevi, Tirunelveli District, to consider the petition, in regard to the issuance of separate patta in the name of his Principal, in respect of the property in question, by passing a reasoned, speaking order on merits



(ofcourse, by providing enough opportunity to the petitioner and others concerned), within a period of four weeks from the date of receipt of a copy of this order.

12.It cannot be gainsaid that the second respondent/Revenue Divisional Officer, Cheran Mahadevi, Tirunelveli District, shall pass orders in an unbiased and dispassionate manner, in the light of the Judgment and Decree, dated 29.10.2015 in O.S.No.53 of 2010 on the file of the trial Court, within the time granted by this Court. It is open to the petitioner to furnish copy of the Judgment in O.S.No.53 of 2010, on the file of the trial Court, before the second respondent/ Revenue Divisional Officer, Cheran Mahadevi, Tirunelveli District, at the time of passing the orders in regard to the subject matter in issue. It is needless for this Court, to point out that the second respondent shall cause notice to the fourth respondent and others, if any, to hear their objections and to pass necessary orders as regards the issuance of patta in the subject matter in issue.

13.With the above observations and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To:

- 1.The District Revenue Officer,
O/o.The District Revenue Officer,
Tirunelveli District, Tirunelveli.
- 2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Cheran Mahadevi, Tirunelveli District.
- 3.The Tahsildar, Taluk Office,
Nanguneri Taluk & Post,
Tirunelveli District.

+1cc to Mr.M.Saravanakumar, Advocate in SR.No.27706
+1cc to the Special Government Pleader in SR.No.27974
SDR/NGM-MP/14.06.2016/5P/6C