



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A[MD].No.322 of 2014
and MP(MD)Nos. 1 and 2 of 2014

M.Arumugam : Appellant/Petitioner

Vs.

01.The District Revenue Officer,
Tiruchirapalli, Tiruchy.

02.The Revenue Divisional Officer,
Thiruchirapalli, Tiruchy

03.U.Sivakumar

04.Selvi

05.M.Venkatachalam

: Respondents/Respondents

PRAYER: Writ Appeal is filed under clause 15 of the letters patent to call for the records relating to the order made in W.P. 14397 of 2013 passed by the Hon'ble learned Single Judge of Writ jurisdiction dated 10-01-2014 on the file of Madurai Bench of Madras High Court and set aside the same and allow the Writ Appeal.

Prayer in WP(MD). 14397/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order dated 25.04.2013 Ref.No.Na.Ka. A1/7839/2012 passed by the second respondent and quash the same and consequently direct the respondents 1 & 2 not to interfere with the title, possession and enjoyment of the petitioner in respect of his land measuring 19.5 cents comprised in Survey No.8/1 and 8/2 of Abishekapuram Village, Trichy Taluk, within the limits of Trichy Cantonment/Trichy Municipal Corporation.

For Appellant : Mr.S.Thangasivan
For R1 and R2 : Mr.V.Muruganantham
Additional Government Pleader
For R3 : Mr.K.Chellapandiyan
Senior Counsel for Mr.G.Karnan
For R4 and R5 : No Appearance



JUDGMENT

[Judgment of the Court was delivered by T.SIVAGANANM, J]

This Writ Appeal has been directed against the order passed by this Court in in W.P. 14397 of 2013 dated 10.01.2014.

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2. Heard Mr.Thangasivan, learned counsel for the appellant and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 and 2, Mr.Chellapandiyan, learned Senior counsel appearing for Mr.G.Kannan, learned counsel for the third respondent. There is no representation for the respondents 4 and 5.

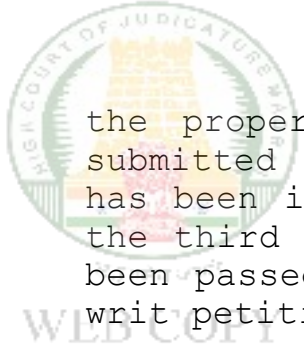
3. By consent, this Writ Appeal is taken up for disposal.

4. The writ petition challenges the order passed by the second respondent dated 25.04.2013 where the appellant's name was deleted from the joint patta issued by the respondent for the subject matter property and sought for consequential direction upon the official respondents not to interfere with the title, possession and enjoyment of the property in question.

5. The facts, which are relevant to be taken into consideration for disposal of the Writ Appeal are as follows:

The property originally was owned by one Meenakshiammal and there was a partition and pursuant to the partition between Meenakshiammal and her other co-sharers, the property devolved upon Mr.Gandhi and his four sisters. This was by registered partition deed dated 25.08.1998. The appellant's case is that one of the four sisters by name Kalarani had sold 1/5 th of her share to the appellant by a sale deed dated 12.04.2007. After obtaining the sale deed in his favour, the appellant made a request to the Tahsildar to include his name in the joint patta along with Mr.Gandhi and three other sisters and accordingly, in the year 2011, the appellant's name was included as joint pattadhar along with other four co-pattathars. The name of the appellant has been deleted from the joint patta by the order dated 25.04.2013 passed by the second respondent which is impugned in the writ petition.

6. The third respondent's case is that the entire property was purchased by him pursuant to the settlement deed executed by his wife Vijayalatha, who secured the property by sale deed dated 10.02.2012. The third respondent would contend that his wife acquired title pursuant to the said sale deed executed by Mr.Gandhi, who become the full owner of the property pursuant to the sale deed executed by his sisters Ilangiam, Mookayee, Amuthavalli and Kalarani represented by their power agent Prakash son of Gandhi by sale deed dated 17.05.2006. It is submitted that Mr.Gandhi had no right over the entire extent of property based on the registered power of attorney and the registered sale deed in his favour, had sold to the third respondent wife, who had settled



the property in favour of the third respondent. It is further submitted that on coming to know that the name of the appellant has been included in the joint patta, representation was given by the third respondent and after due enquiry the impugned order has been passed and the impugned order is an appealable order and the writ petition itself is not maintainable.

7. On the above submission we have heard the learned Government Advocate also.

8. On a perusal of the order dated 25.04.2015 passed by the second respondent we find that it is not clear as to whether proper notice was served on the appellant. In the first page of the order it refers as if one Arumugam was enquired into the matter on three days along with the third respondent. But at page No.27, it is recorded as if notice sent to Arumugam could not be served and the Village Administrative Officer could not identify the said person. The explanation given by the learned Senior Counsel appearing for the third respondent is that the said Arumugam is a witness and the appellant was in fact enquired by the second respondent. A specific case of the appellant is that he had no opportunity before the second respondent. Further, it is submitted by the learned counsel for the appellant that the order deleting the appellant's name from the joint patta virtually has a direct effect on the sale deed executed in favour of the appellant on 12.04.2007 and once the second respondent came to know that there are registered sale deeds in favour of both parties, the second respondent ought to have directed the parties to approach the civil court.

9. In the light of the above factual scenario and as it has not been established by the second respondent that notice was issued to the appellant, this Court is inclined to interfere with the impugned order as it is in violation of principles of natural justice. While on this issue, it would be relevant to point out that the revenue authorities who are competent authorities to issue patta cannot adjudicate upon title to an immovable property. If there is genuine dispute regarding the title to an immovable property the parties have to be directed to approach the civil court. As noticed above, both the appellant and the third respondent claimed right over the property in question. The appellant's right in respect of 1/5 of the property claimed to have been purchased through one of the co-owners in the year 2007 by a registered document. The third respondent traces his title to one of the other co-owners by name Gandhi who claims that he is the owner of the entire extent pursuant to a sale deed in his favour which was executed by his own son as a power agent of the sisters.

<https://hcservices.ecourts.gov.in/hcservices/>

10. Since the dispute is with regard to title nevertheless having coming to know that the order passed by the



second respondent is violation of principles of natural justice, this Court is of the considered view that the matter requires to be remitted back to the second respondent for fresh consideration after notice to the concerned parties and after affording an opportunity of personal hearing to all the parties.

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11. In the result, the Writ Appeal is allowed and the order passed in the Writ Petition is set aside. Consequently, the writ petition is allowed and the order passed by the second respondent dated 25.04.2013 is set aside. The matter is remitted back to the second respondent for fresh consideration. The second respondent shall issue notice to the petitioner, the respondents 3 to 5 as well as Gandhi, Ilangiam, Mookayee, Kalarani, Amuthavalli and hear all the parties and take a decision in accordance with law after affording an opportunity of personal hearing to the parties. The aforesaid direction shall be complied with within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected M.P.(MD)Nos.1 and 2 of 2014 are closed.

12. It is made clear that till enquiry is conducted as per the above direction, the second respondent is shall not alter entries in the revenue records.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

01.The District Revenue Officer, Tiruchirapalli.

02.The Revenue Divisional Officer, Thiruchirapalli.

+1CC to M/S.M.S.Suresh Kumar, Advocate, SR.No. 17411

+1CC to M/S.G.Karnan, Advocate, SR.No. 17216

+1CC to the Special Government Pleader SR.No. 17634

Judgment made in
W.A[MD].No.322 of 2014

and
MP(MD) Nos.1 and 2 of 2014
23.3.2017

CM/TSG/TA

AM/SKN RSK/SAR-4/11.04.2017/4P/6C