



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2017

CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.(MD)No.14548 of 2014
and
M.P(MD)No.2 of 2014

Mangayarkarasi

... Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

4.The President,
Kandaramanickam Village Panchayat,
Kallal Panchayat Union,
Sivagangai District.

5.The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai District.

6.Arumugam

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent's proceedings in Pa.Mu.P4/12658/2013 dated 20.07.2014 and quash the same as illegal and consequently directing the 1st respondent to restore the name of the petitioner in patta No.2989 in Survey No.476/3B2, Veliyathur Village, Thriuppathur Taluk, Sivagangai District.

For Petitioner : Mr.V.Thirumal
For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate
for R.1 to R.3 & R.5
No appearance for R.4
Mr.R.Vijayakumar for R.6

ORDER

This writ petition has been filed by the petitioner, seeking a writ of Certiorarified Mandamus, to quash the proceedings of the first respondent dated 20.07.2014 and to direct the first respondent to restore the patta No.2989 in Survey No.476/3B2, Veliyathur Village, Thriuppathur Taluk, Sivagangai District, in the name of the petitioner.

2. The facts of the case, in nutshell, are as follows:

2.1. According to the petitioner, the property in Survey No.476/3B is her ancestral property and joint patta was also issued in favour of the petitioner and the sixth respondent. After some rounds of litigation, the same attained finality. Thereafter, the property in Survey No.476/3B2 was allotted to the petitioner, after subdivision.

2.2. At this juncture, some third parties have filed an application before the first respondent, claiming right over the same, which was negatived by the first respondent by order dated 04.09.2012, citing the pendency of a civil suit. Later on, some other third parties have also filed an application before the second respondent, which was also dismissed on 02.07.2014, permitting the petitioner to enjoy the property. While so, all of a sudden, the present impugned order dated 20.07.2014, came to be passed, as if the property belongs to the sixth respondent and aggrieved thereby, the petitioner is before this Court.

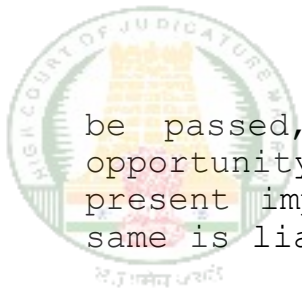
3. The learned Counsel for the petitioner specifically contended that once the title is decided by the authorities, which attained finality, there cannot be any re-consideration. While that being so, the present impugned order has been passed and that too, without affording an opportunity of hearing to the petitioner.

4. On the other hand, the learned Counsel for the sixth respondent submitted that it is open to the authorities to pass fresh orders, in the event of production of fresh material evidence and in the present case on hand, based on the materials available on record, the first respondent has passed the present impugned order.

5. Heard both sides and perused the documents placed on record.

6. It is not in dispute that by orders dated 04.09.2012 and 02.07.2014, the authorities had confirmed the title in favour of the petitioner. Such being the case, the first respondent has passed the impugned order dated 20.07.2014, in the very same subject matter, in favour of the sixth respondent.

7. Be that as it may, it is the bounden duty of the authorities to consider a matter afresh, if fresh documentary evidence are let in. While doing so, the principles of natural justice should not be violated, at any cost. Whereas, the present impugned order came to



be passed, without issuing any notice or without providing an opportunity of hearing to the petitioner. On that ground alone, the present impugned order would not stand in the eye of law and the same is liable to be set aside.

8. In result, this writ petition is allowed. The impugned order dated 20.07.2014 is set aside and the matter is remitted back, for fresh consideration, to the first respondent, who shall pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner and the sixth respondent as well as all the other interested parties, if any, and after perusing all the documentary evidence to be placed by all the parties, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Revenue Officer,
Sivagangai District, Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.
- 4.The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai District.

+One cc to The Special Government Pleader, SR.No.87015

+One cc to Mr.V.Thirumal, Advocate, SR.No.87229

+One cc to Mr.R.Vijayakumar, Advocate, SR.No.86806

gk

RL/8C/3P/SKN/RSK/SAR4/29/11/2017

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