

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 03.08.2018

ORDER PRONOUNCED ON : 11.08.2018

CORAM:

THE HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

W.P.No.788 of 2009
and M.P.No.1 of 2009

Krishnamurthy

... Petitioner

Vs.

1. The Principal Secretary and Commissioner
of Land Administration,
Ezhilagam, Chennai.
2. The District Revenue Officer, Tiruvallur.
3. The Revenue Divisional Officer, Ponneri.
4. The Tahsildar, Ambattur.
5. Kandan
6. Kanagavalli
7. Nukkala
8. Savithri

... Respondents

PRAYER:

Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records on the file of the second respondent in proceedings Na.Ka.17927/2005/A3 dated 02.09.2008 in confirming the order of the Revenue Divisional Officer, Ponneri, and the third respondent in proceedings Na.Ka.4255/07 A1 dated 20.06.2007 and dated 20.11.2008 and quash the same.

For Petitioner : Mr.V.Ragavachari

For 1 to 4 Respondents : Mr.N.Manikandan

O R D E R

The instant Writ Petition has been filed with a prayer to call for the records on the file of the second respondent in proceedings Na.Ka.17927/2005/A3 dated 02.09.2008 confirming the

order of the Revenue Divisional Officer, Ponneri, and the third respondent in proceedings Na.Ka.4255/07 A1 dated 20.06.2007 and dated 20.11.2008 and quash the same.

2. The facts in brief as stated by the petitioner in the Writ Petition are as under:-

(a) The property at Survey No.1414/3 measuring to an extent of 0.57.0 acres situated in Madhavaram Village, Ambattur Taluk, Tiruvallur District, belonged to one Balaraman, S/o. Varadaiah Naidu at Peravallur. Balaraman executed a power of attorney in favour of the petitioner viz., Krishnamurthy. Balaraman later executed a sale deed dated 17.02.2005 in favour of the petitioner. Sale deed was registered on the file of the Sub-Registrar, Sembium under document No.1173/2005.

(b) Patta stood in the name of Balaraman. There was an amendment patta and the names of respondent Nos.5 to 8 were included in the Patta. Balaraman raised objections before the Revenue Divisional Officer, Ponneri, against inclusion of names of the respondent Nos.5 to 8 in the Patta.

3. It is stated that the Tahsildar, Ambattur/4th respondent by report dated 13.12.2004, concluded that inclusion of respondent Nos.5 to 8 in the patta was not in accordance with law.

4. Despite the enquiry report, the Revenue Divisional Officer, Ponneri, rejected the claim of the Balaraman that the claim of respondent Nos.5 to 8 had not been properly included. The District Revenue Officer, Tiruvallur/2nd respondent confirmed the appeal of the Revenue Divisional Officer, which is under challenge.

5. Though notice was issued on the Writ Petition, service was not completed on respondent Nos.5 to 8. This Court, by an order dated 21.09.2016, passed the following order:-

The above matter is listed today under the caption 'Default Cases', for non-compliance of the requirements of the Registry, including the payment of batta.

2. The concerned counsels are directed to pay the batta and to comply with the other requirements of the Registry, on or before 05.10.2016, as a last chance, and to file proof of compliance, immediately, thereafter.

3. On non-compliance of the requirements of the Registry, on or before the specified date, as directed by this Court, the Writ Petition shall stand dismissed, automatically, in sofa as R5 to

R8 are concerned, without further reference to this Court.

Since the said directions were not complied with, the Writ Petition stands dismissed for respondent Nos.5 to 8.

6. Heard the learned counsel appearing for the petitioner and the respondents.

7. The learned counsel appearing for the petitioner has contested that the procedure as contemplated under Section 10 of the Patta Pass book Act, 1986, has not been followed.

8. The counter of the State reads as under:-

It is submitted that the history of the case as follows Thiru.Krishnamurthy, power agent of Thiru.Balaraman Naidu has filed appeal petition against the orders of Sub Collector, Ponneri, proceedings Rc.No.12991/2004/A2 dated:30.05.2005 before the then District Revenue Officer in respect of S.No.1414/3 in patta No.815, of Madhavaram Village.

The Sub Collector, Ponneri in her proceedings Rc.No.12991/2004/A2 dated 03.05.2005 has observed that.

As per Village Accounts:-

Nama of the Village	Survey No.	Extent (Hectrs)	Patta No. & Pattathar Name
Madhavaram Village	1414/3A1B	0.06.3	8230, Savithri W/o. Chittibabu
	1414/3A1A	0.50.5	815, Balaraman-1 Kandan@Samy-2

As per report of the Tahsildar Ambattur, Rc.No.19849/2004/C1 dated 13.12.2004 the then Madhavaram-II Village VAO Thiru.Suriyaprakash had issued 10(1) Chitta copy bearing patta number 815, as wrongly Balaraman (1) Kandan @ Sami (2). Based on this extract, Sub Division records prepared as S.No.1414/3A1A since patta transfer orders issued based on wrong Chitta, the 8A orders of Tahsildar, Ambattur, bearing No.3220/1412 was cancelled by Sub-Collector, Ponneri, vide his proceedings Rc.12991/2004/A2, dated 03.05.2005.

The then Sub-Collector, Ponneri, in her proceedings had clearly discussed the various transactions that took place in schedule A and schedule B of properties mentioned in the decree in

O.S.No.411/1983 dated 20.09.1983.
Schedule A- S.No.1414/1 extent 0.45 acres.

1/4th of the 0.45 acres of land are obtained by Balaraman through partition deed and sold to Tmt.Muniammal w/o. Thiruvengada Pillai.

Schedule B- S.No.1414/3A1A & 1414/3A1B measuring an extent of 0.57.0 Hectares.

Subdivided and 0.50.0 hectares - Patta No.815
Balaraman (A1)
Kandan(A) Samy (R1)

(Based on false 10(1) chitta issued by Madhavaram VAO)

(Patta No.8230) 0.06.5 hectares
Savithri D/o. Chithibabu

In schedule B itself a portion of i.e.

1) 31 cents of land has been obtained by Rajeshwari W/o.Ramasamy vide Doc.No.4182/90 dt.31.08.90.

2) 14 cents of land has been obtained by Thiru.Jayapandian S/o. Brahmaiya Nadar vide Doc.No.4185/90 dt.31.08.90.

3) 20 cents of land has been obtained by Velpandian S/o.Thangadurai vide Doc.No.4181/90 dt.31.08.90.

4) 22 cents of land has been obtained by Ramasamy S/o.Thangadurai vide Doc.No.4184/90 dt.31.08.90.

5) 22 cents of land has been obtained by Sankarashwari W/o. Jayapandian vide Doc.No.4183/90.

So, out of the total extent of 1.40 acres in schedule -B, 1.09 acres of land has been sold out to several person by

(1) Kandhan (A) Kandhasamy S/o.Ulaganatha Pillai

(2) Kanagavalli W/o.Ulaganatha Pillai

The observations of D.R.O. are

1. Thiru.Krishnamurthy did not produce the parent document of the S.No.1414/3 which he obtained from Balaraman.

2. It is proved that based on false 10(1) Chitta, Patta transfer order have been issued in favour of Thiru.Krishnamurthy.

3. So, the appeal petition of the appellant is dismissed.

9. The learned counsel appearing for the respondent would therefore, contend that the District Revenue Officer conducted hearing and recorded the statement of the appellant and perused the available document and after holding the enquiry, it was found that the claim of the petitioner that respondent Nos.5 to 8 have wrongly included in the patta cannot be accepted. No fault can be found with the order of the District Revenue Office.

10. A perusal of the Writ Petition shows that the apprehension of the petitioner is that inclusion of respondent Nos.5 to 8 in the patta for the property will affect his title. It is well settled that patta only reflects who are in possession of the property and also who are liable to pay tax. Patta is not a declaration of title of the property.

11. The remedy for the petitioner, therefore, lies in filing an appropriate suit in Court of competent jurisdiction to establish his title. The Writ Court is not a correct forum to decide the title on the basis of evidence. The petitioner is, therefore, at liberty to file the appropriate suit. If and when such suit is filed, the trial Court shall consider the suit on its own merits without being influenced by any of the observations made by the Revenue authorities regarding grievance of the petitioner for deleting the name of respondent Nos.5 to 8 from the patta since patta is not a proof of title and can only show possession.

With the above terms, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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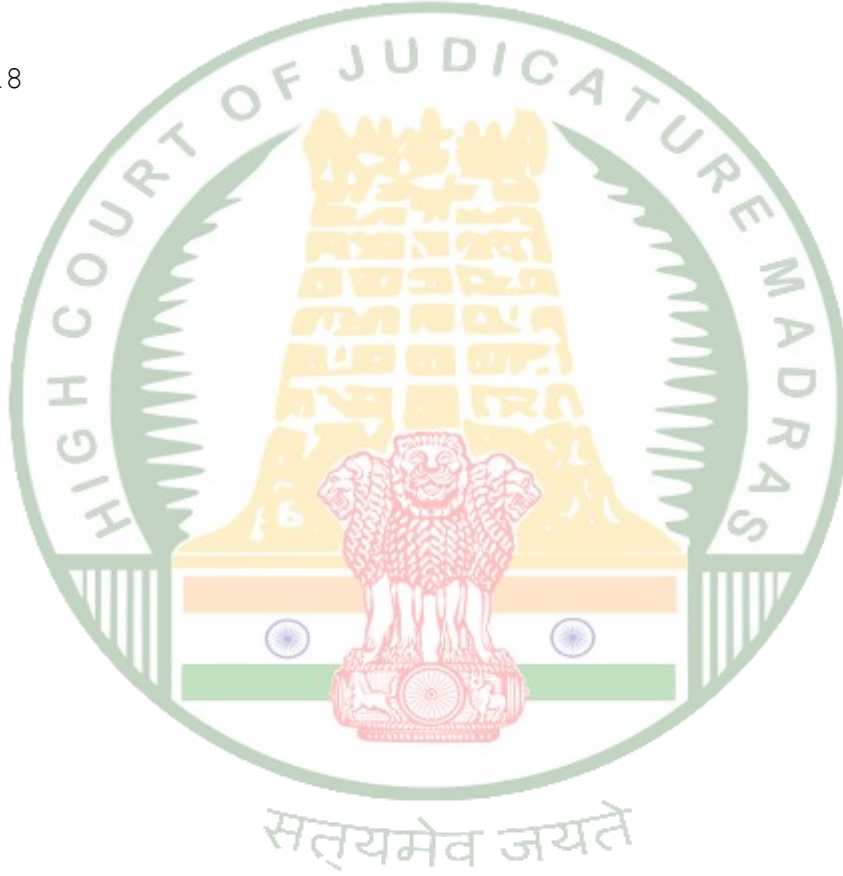
To

1. The Principal Secretary and Commissioner
of Land Administration, Ezhilagam, Chennai.
2. The District Revenue Officer, Tiruvallur.
3. The Revenue Divisional Officer, Ponneri.
4. The Tahsildar, Ambattur.

+1cc to the Government Pleader, S.R.No.56411

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and M.P.No.1 of 2009

KK (CO)
CS/04/09/18



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