

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.04.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1769 of 2006
And
W.P.M.P.No.2024 of 2006

S.Muthammal @ Easwariammal ... Petitioner

Vs.

1.The Special Commissioner and
Commissioner for Land Administration,
Chepauk,
Chennai - 600 005.

2.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

3.The Revenue Divisional Officer,
Tirunelveli.

4.The Revenue Tahsildar,
Tirunelveli Taluk,
Tirunelveli.

5.M.Miakhani

6.A.Sadhik Ahmed

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records from the file of the first respondent with regard to his order in Ref.No.D.Dis.K4/RP21/04 (44012/01) dated 18.10.2005 and quash the same.

For Petitioner : Mr.S.B.Viswanathan

For Respondents : Mr.K.Ravikumar for R1 to R4
Additional Government Pleader
Mr.S.Giridharan for R5 and R6

O R D E R

The petitioner had filed this writ petition seeking to quash the order passed by the first respondent on 18.10.2005 wherein the first respondent disposed of the revision petition filed by the petitioner by setting aside the orders passed by the Tahsildar, Revenue Divisional Officer and District Revenue

Officer and remanded the case to the Tahsildar for fresh enquiry.

2.The facts leading to the filing of this writ petition are as follows: The petitioner is the legal heir of one S.S.Piramanayagam Pillai who purchased an extent of land measuring 50 cents in S.No.6/8 (Old Adangal No.22/3) and 87 cents in S.No.38/4 (Old Adangal No.70/3) at Vagaikulam Village for a total sale consideration of Rs.301/- in the public auction held on 08.04.1960 by the District Munsif Court, Tirunelveli in E.P.No.565 of 1959 in S.C.No.316 of 1958 and the sale was duly confirmed by the Court.

3.After purchasing the above said lands, the said S.S.Piramanayagam Pillai got possession of the same and he applied for mutation of revenue records. However, the fourth respondent refused to issue patta in his favour. Hence, he filed suit in O.S.No.1270 of 1989 against the State of Tamilnadu represented by the District Collector for declaration declaring that the above said lands exclusively belonged to him. There was no representation on behalf of the defendant and hence an exparte decree was passed by the learned District Munsif, Tirunelveli on 23.02.1990.

4.While being so, the said S.S.Piramanayagam Pillai died on 29.06.1992 leaving behind the petitioner as the only legal heir. Hence, the petitioner submitted application before the fourth respondent for issuance of joint patta in her name. Based on the judgment and decree passed by the District Munsif Court, Tirunelveli, the fourth respondent vide order dated 07.06.1993 directed the Deputy Tahsildar to issue joint patta in her name and the Deputy Tahsildar vide order dated 28.05.1994 issued joint patta in her name.

5.Aggrieved by the same, the respondents 5 and 6 filed appeal before the third respondent and the third respondent dismissed the appeal. Hence, the respondents 5 and 6 filed a revision petition before the second respondent. The second respondent vide order dated 29.05.1997 remanded the case for fresh enquiry. Aggrieved by the same, the petitioner filed revision petition before the first respondent and the first respondent remanded the case to the Tahsildar for fresh enquiry. Hence, the petitioner has filed this writ petition.

6.The respondents 5 and 6 contested the revision petition stating that the property in question was purchased by their ancestors in the name of Thahira Beevi vide registered document no.54/1960 dated 06.01.1960 from one Valliammai Ammal. After purchase, they were in continuous possession and enjoyment. Their title, ownership and prescriptive right over the land were confirmed by the Settlement Tahsildar, Inam Settlement Office, Madurai by his orders in S.R.Nos.1 to 92/TNY/78 dated 07.02.1979

and also by the Assistant Settlement Officer, Madurai in his Ref.No.SR1 to 92/TNV/78, dated 24.04.1984 and 30.12.1994. Subsequently, during the UDR scheme the land was subdivided and registered as follows:

S.No.	Extent	Patta No.	Pattadar
38/4I	0.18.0	2	Ahmed Yusuf
38/4J	0.07.0	128	Mohamed Miakhan and 4 others
38/4E	0.11.0	76	Thahira Beevi
	0.36.0 Ha or 0.87 acre		

7. Thereafter, the above lands including all other patta lands were amalgamated and laid out into plots and the layout plan was approved by the Panchayat Union Commissioner, Manoor by his order in Rc.No.8746/82 dated 13.12.1982 and as per the layout plan S.No.38/4 was handed over to the Panchayat as per document no.P.2.113/83 dated 17.01.1983 for maintenance of road. The said land is under the control of the local body.

8. While being the position, the petitioner based on the exparte order applied for mutation of the revenue records before the Tahsildar is un-sustainable one. Accordingly, the order of the first respondent need not be interfered with as the patta proceedings were conducted behind the back of respondents 5 and 6 and patta was granted without their knowledge.

9. Heard both sides.

10. A perusal of the impugned order discloses that the petitioner based on the exparte order passed in O.S.No.1270 of 1989 approached the Tahsildar for mutation of revenue records and the Tahsildar also granted patta in favour of the petitioner and the Revenue Divisional Officer also confirmed the same. However the District Revenue Officer, remanded the case for fresh enquiry. Aggrieved by the same, the petitioner filed revision petition before the first respondent and the first respondent disposed of the revision petition by setting aside the orders passed by the Tahsildar, Revenue Divisional Officer and District Revenue Officer and remanded the case to the Tahsildar for fresh enquiry.

11. Admittedly, the land in question was plotted out by the respondents 5 and 6 and the same was handed over to the local body. The private pattadhars were not impleaded in the suit.

Without impleading the private pattadhars, exparte order came to be passed. Admittedly, the exparte order was obtained against the District Collector. Though the property was purchased by the petitioner's uncle namely, S.S.Piramanayagam Pillai through Court auction, for the reasons best known to him, he filed the suit for declaration declaring that the above said lands exclusively belonged to him, though he possess title through Court auction. The reasons for filing of the suit has not been properly explained by the petitioner. However, the first respondent has only remanded the matter to the Tahsildar for fresh enquiry.

12. There is no proper explanation for filing the suit against the District Collector. In view of the disputed question of facts, this Court does not find any infirmity in the order passed by the first respondent. Hence this Court is not inclined to interfere with the orders passed by the first respondent. The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai - 600 005.
2. The District Revenue Officer,
Tirunelveli District, Tirunelveli.
3. The Revenue Divisional Officer, Tirunelveli.
4. The Revenue Tahsildar,
Tirunelveli Taluk,
Tirunelveli.

+1cc to Mr.S.Viswanathan, Advocate sR.No.25087
+1cc to Mr.S.Giridharan, Advocate Sr.No.25570
+1cc to Government Pleader SR.No.25636

KK(CO)
sm:18.4.2018

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And
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