



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.981 of 2017
and
C.M.P(MD)Nos.7818 and 6699 of 2017
and
W.P. (MD)No.9626 of 2017
and
W.M.P. (MD)Nos.7354 to 7356 of 2017

W.A(MD)No.981 of 2017:

K.Pandidurai : Appellant/Third Party

Vs.

1. Ibrahim Sha
2. The District Revenue Officer,
Pudukottai District, Pudukottai.
3. The Tahsildar,
Thirumayam Taluk,
Thirumayam, Pudukottai District.
4. The Village Administrative Officer,
Thirumayam Village & Taluk,
Pudukottai District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 20.06.2017 in W.P(MD).No.11104 of 2017.

Prayer in WP(MD)No.11104/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to implement the order of the 1st respondent in Na.Ka.E2/4454/2016 dated 14.07.2016.

For Appellant : Mr.C.Jegannathan
For Respondent No.1 : Mr.M.Joseph Thatheus Jerome
for Mr.S.Alagusundar
For Respondents 2 to 4 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader



W.P(MD)No.9626 of 2017:

K.Pandidurai

: Petitioner

Vs.

1. The District Collector,
Pudhukkottai,
Pudhukkottai District.

2. The District Revenue Officer,
Pudhukkottai,
Pudhukkottai District.

3. The Tahsildar,
Thirumayam Taluk,
Pudhukkottai District.

4. S.Ibrahimsha

5. S.Bahrunisha

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka.E2/4454/2016 dated 14.07.2016 and to quash the same and consequently direct the third respondent to issue patta in the name of the petitioner on the basis of his application dated 18.05.2017.

For Petitioner : Mr.C.Jegannathan

for Mr.V.S.Kishok Kumar

For Respondents 1 to 3 : Mr.C.M.Marichelliah Prabhu

Additional Government Pleader

For Respondents 4 & 5 : Mr.V.Sitharanjandas

COMMON JUDGMENT

**[Common Judgment of the Court was delivered by
M.SATHYANARAYANAN, J.]**

By consent, both cases are taken up for final disposal and are disposed of by this common order as the facts pleaded and issue to be adjudicated are one and the same.

2.The petitioner in the affidavit filed in support of W.P. (MD)No.9626 of 2017, would aver among other things that he own a stretch of land admeasuring to an extent of 1.26 Hectares in R.S.No.821/2 in Thirumayam village, Pudukottai District and originally the said property belonged to one C.Karuppiyah, son of Chinnapan of Kodipatti Village, Thirumayam Taluk and vide registered sale deed dated 15.12.2014, bearing Document No.3373 of 2014,



registered on the file of the Sub-Registrar, Thirumayam, he had purchased the said property for a valid consideration of Rs.5,70,000/- (Rupees Five Lakhs Seventy Thousand only).

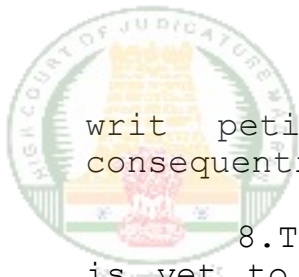
3.It is the specific case of the purchaser that one C.Karupppiah was in possession and enjoyment of the same. The petitioner would claim that after verifying the patta and 'A' Register, he has purchased the property and ever since the purchase, he has been in possession and enjoyment of the same. However, to his shock and surprise, some revenue officials came to his lawn on 25.03.2017 and started inspection and then only he became aware of the fact that the said land is sought to be illegally assigned in favour of the respondents 4 and 5.

4.The petitioner would further aver that apprehending dispossession without recourse to law, he has filed a suit during the year 2017 on the file of the Court of District Munsif, Thirumayam, for permanent injunction restraining the official respondents from illegally assigning the said property in favour of the private respondents.

5.The petitioner later on got a copy of the proceedings of the District Revenue Officer dated 14.07.2016 in Na.Ka.E2/4454/2016, addressed to the Tahsildar, Thirumayam, with a copy marked to the private respondents as to the sub division and therefore, came forward to challenge the said proceedings in the present writ petition.

6.The writ petition was entertained and notices were ordered and the fourth respondent has filed counter affidavit stating among other things that the landed property admeasuring to an extent of 0.60.0 hectares in S.F.No.821/2, Thirumayam Taluk, Pudukottai District was classified as "Punja Tharasu" and on 09.07.1992, the Tahsildar, Thirumayam has issued an assignment patta vide his proceedings Tharkas 1 and 2/1402/A3 in his favour as well as in favour of his mother and ever since the date of assignment, they were in possession and enjoyment of the property. The property was then sub divided as S.F.Nos.821/2 and 821/5, which were assigned in his favour as well as in favour of his mother, respectively, and since necessary entries have not been made, they approached the second respondent, who vide proceedings dated 14.07.2016, has sub-divided the same.

7.The petitioner would further aver that the writ petitioner created records in such a way, as if, one Karupppiah was the owner of the property to certain extent of land in S.F.No.821/21 and got a sale deed in his favour and by virtue of the same has conveyed the property in favour of five persons vide sale deeds dated 24.11.2015 and fearing dispossession, the respondents 4 and 5 were constrained to file O.S.No.175 of 2017, on the file of the Sub Court, Pudukottai, to declare the property in S.F.No.821/2, absolutely belonging to him and sale deed dated 15.12.2014, in favour of the



writ petitioner and Karuppiyah as null and void and other consequential relief and the said suit is still pending.

8.The fourth respondent also took a stand that the petitioner is yet to question the assignment orders and as such the present writ petition lacks merit.

9.In response to the same, the learned counsel appearing for the petitioner would submit that to cancel the said assignment, the jurisdictional Tahsildar had issued notices and the said fact is seriously disputed by the learned counsel appearing for the respondents 4 and 5.

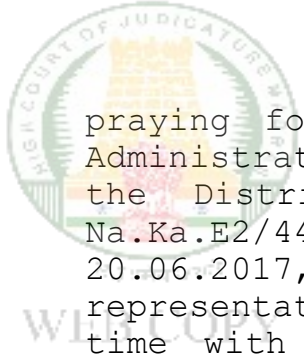
10.This Court has considered the arguments advanced by the respective learned counsel appearing for the parties as per the affidavit and typed set of documents and also perused the materials placed before it.

11.The fact remains that the District Revenue Officer, Pudukottai District vide communication dated 14.07.2016, has directed the Tahsildar, Thirumayam, as to the sub division of the land in Survey Nos.821/2 and 821/5, admeasuring to an extent of 0.60.0 and 0.66.0 hectares, respectively, its superstructures and directed the said official to carryout necessary entries in this regard. It is the claim of the petitioner that he has purchased the land admeasuring to an extent of 0.60.0 hectares in Survey No.821/2, vide registered sale deed bearing Document No.3373/2014, registered on the file of the office of the Sub Registrar, Thirumayam. It is also brought to the knowledge of this Court that a comprehensive suit has also been filed vide O.S.No.175 of 2017, on the file of the Sub Court, Pudukottai, in which the present petitioner is arrayed as the second defendant.

12.It is also to be noted at this juncture that the petitioner, merely filed a suit for permanent injunction on the file of the Court of District Munsif, Thirumayam and it is also said to be pending.

13.In the light of the pendency of the civil proceedings and that the petitioner as well as the private respondents are questioning each others title to the property, this Court cannot pass any orders touching upon the merits of the proceedings of the respondent dated 14.07.2016 and it is for the parties to work out their remedy in the pending litigation by letting in quality evidence, so that the issues can be adjudicated effectively by the concerned civil forum. Accordingly, the writ petition is liable to be dismissed.

14.One of the private respondents in W.P.(MD)No.9626 of 2017, namely, the fourth respondent has filed W.P.(MD)No.11104 of 2017, against the District Revenue Officer, Pudukottai, Tahsildar, Thirumayam and Village Administrative Officer, Thirumayam Village,



praying for issuance of writ of mandamus, directing the Village Administrative Officer, Thirumayam Village to implement the order of the District Revenue Officer, Pudukottai dated 14.07.2016 in Na.Ka.E2/4454/2016 and the learned Judge vide final orders dated 20.06.2017, has granted liberty to the petitioner to submit a fresh representation to the third respondent therein within a stipulated time with further direction to the third respondent therein to consider the representation of the petitioner, after providing opportunity to the petitioner and give a disposal in accordance with law and challenging the legality of the same, the petitioner in W.P. (MD)No.9626 of 2017, after obtaining leave, has filed this writ appeal and the same has been entertained.

15.Mr.C.Jegannathan, learned counsel appearing for the appellant / third party would submit that admittedly the first respondent / writ petitioner has filed a comprehensive suit in O.S.No.175 of 2017, on the file of the Sub Court, Pudukottai and without disclosing the said fact, has filed the present writ petition and having filed the counter affidavit in W.P.(MD) No.9626 of 2017, he should have taken steps to implead the appellant as party in W.P.(MD)No.11104 of 2017, at least before the final disposal of the writ petition and since he has failed to do so, prays for interference.

16.Per contra, Mr.M.Joseph Thatheus Jerome, learned Counsel for Mr.S.Alagusundar, learned counsel appearing for the first respondent would submit that the non-disclosure of the facts in the affidavit filed in support of this appeal is purely an inadvertent one and would further add that the sub-division has been effected on a thorough consideration and appreciation of the records and it was taken note of by the District Revenue Officer, Pudukottai, and by the Tahsildar, Thirumayam and hence, it cannot be faulted with.

17.This Court heard the submissions of the learned Additional Government Pleader appearing for the official respondents.

18.A perusal of the affidavit filed in support of W.P.(MD) No.1104 of 2017, filed by the first respondent, would reveal that the finality of the suit in O.S.No.175 of 2017, has not been disclosed at all. This Court, while disposing of W.P.(MD)No.9626 of 2017, has already recorded the fact that the said suit is a comprehensive one, wherein the petitioner also has gone for declaration of his title in respect of the very same property. This Court has also recorded the fact that the appellant herein also filed a suit for permanent injunction in O.S.No.40 of 2017, on the file of the District Munsif, Thirumayam and the same is also pending.

19.In the light of the pending litigations, the appellant as well as the first respondent are at liberty to work out their remedy in the pending litigations and this Court cannot give any findings on the facts pleaded or the documents placed before this Court, as

it may prejudice or vitiate the trial of the pending litigations.

20. In the result, W.A(MD)No.981 of 2017, stands disposed of and W.P.(MD)No.9626 of 2017, stands dismissed subject to the above observations. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Pudhukkottai,
Pudhukkottai District.
2. The District Revenue Officer,
Pudukottai District,
Pudukottai.
3. The Tahsildar,
Thirumayam Taluk,
Thirumayam, Pudukottai District.
4. The Village Administrative Officer,
Thirumayam Village & Taluk,
Pudukottai District.

- + 1 CC TO M/s.VEERA ASSOCIATES, IN SR No. 55885
- + 1 CC TO Mr.S.ALAGUSUNDAR, ADVOCATE IN SR No. 55586
- + 1 CC TO Mr.V.SITHARANJANDAS, ADVOCATE IN SR No. 55501
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 55926

MR

TE/SKN-RSK/SAR-1 : 02/04/2018 : 6P/9C

COMMON JUDGMENT MADE IN
W.A(MD)No.981 of 2017 and
W.P. (MD)No.9626 of 2017
15.03.2018