



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2018

CORAM:

WEB COPY

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

W.A(MD)No.510 of 2011

Manimegalai

... Appellant/Petitioner

Vs.

1. The District Collector,
Virudhunagar District.
2. The Revenue Divisional Officer,
Sivakasi.
3. Rajamaniammal
4. K.S.Kannan

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 25.03.2011 made in W.P(MD)No.1706 of 2011, on the file of this Court.

Prayer in WP(MD)No.1706/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI, calling for the records of the 1st Respondent in Na.Ka.B2/13500/09 dated 25-01-2011 and quash the same.

For Appellant	: Mr.S.Ramesh
For RR 1 & 2	: Mr.C.M.Marichelliah Prabhu, Additional Government Pleader.
For RR 3 & 4	: No appearance

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

The writ petitioner is the appellant and he made a challenge to the order of the first respondent, dated 25.01.2011, in confirming the order of the second respondent, dated 02.03.2009, in and by which, patta was granted to one Nagappan Chettiar, who was the original owner of the land, admeasuring an extent of 16 acres and 58 cents in Survey No.722/1A, Erichanatham Village, Sivakasi Taluk, Virudhunagar District. The Writ Petition, after contest, came



to be dismissed vide impugned order, dated 25.03.2011 and challenging the legality of the same, the appellant/writ petitioner has filed this Writ Appeal.

2. According to the appellant/writ petitioner, the said property is her self-acquired property, purchased through a registered sale deed, dated 30.06.1975, for a valuable consideration from A.S.Nagarathinam and the legal heirs of the predecessor of V.V.A.Shanmugam, who was the husband of the first vendor and father of the vendors 2 and 3, who had purchased the same through a registered sale deed, dated 02.09.1970.

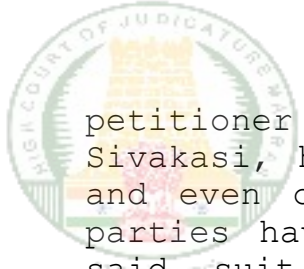
3. The appellant/writ petitioner would submit that she along with her husband was residing at Chennai and she was managing and enjoying the properties through her agents. One Jeevajothi attempted to interfere with the possession and enjoyment of the property on 25.02.2008 and also started disputing her title and in this regard, she has filed a suit in O.S.No.17 of 2008, on the file of the Court of the Subordinate Judge, Virudhunagar, praying for declaration that the suit property absolutely belongs to her and also for a consequential permanent injunction restraining Jeeva Jothi, Tamil Selvi and Shanthi from interfering with her peaceful possession and enjoyment of the same and also for mandatory injunction directing the fourth defendant/the Sub-Registrar, Kunnur, to cancel the gift deed, dated 28.02.2007 executed in their favour.

4. It is further stated by the appellant/writ petitioner that the mother of the defendants 1 to 3 in O.S.No.17 of 2008, namely Rajamaniammal, has approached the Revenue Divisional Officer, Sivakasi, as to the name stand in the revenue records, including patta, in favour of the appellant/writ petitioner and vide proceedings, dated 02.03.2009, the said official, has taken into consideration the facts and circumstances of the case, none of the parties had produced documents to prove their title, ownership and possession and therefore cancelled the patta and entered in the revenue records and further ordered that it should be in the name of the original predecessor-in-title, namely Nagappan Chettiar.

5. The appellant/writ petitioner herein aggrieved by the same, filed an appeal before the Collector of Virudhunagar District and the said official also vide proceedings, dated 25.01.2011, made in Na.Ka.B2/13500/09, has dismissed the said appeal and challenging the legality of the same, she has filed W.P(MD)No.1706 of 2011. The Writ Petition was entertained and the learned Single Judge, after going through the materials, found that the impugned orders passed by the Revenue Divisional Officer, Sivakasi, as confirmed by the Collector of Virudhunagar District, warrant no interference and therefore, dismissed the Writ Petition vide impugned order, dated 25.03.2011 and aggrieved by the same, the Writ Petitioner has filed the present Writ Appeal.

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

6. The learned counsel appearing for the appellant/writ



petitioner would submit that the Revenue Divisional Officer, Sivakasi, has no jurisdiction to entertain such a kind of petition and even otherwise, it was observed in both the orders that the parties have to work out their remedy in the civil forum and the said suit in O.S.No.17 of 2008 filed by the appellant/writ petitioner, on the file of the Court of the Subordinate Judge, Virudhunagar, came to be decreed on 03.10.2016 and unless and until, no appeal has been filed to the knowledge of the appellant/writ petitioner and therefore, prays for restoration of her name in respect of the revenue records pertaining to the said land.

7.Per contra, Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader, appearing for the respondents 1 and 2, has invited the attention of this Court to the counter-affidavit of the first respondent and would submit that since either of the parties did not produce sufficient materials, as to the right, title and possession, the original authority as well as the Appellate Authority, has rightly restored the name of the original title holder, namely Nagappan Chettiar, in the revenue records and also indicated that it is subject to the result of the pending litigation and as such, the reasons assigned by the officials cannot be faulted with.

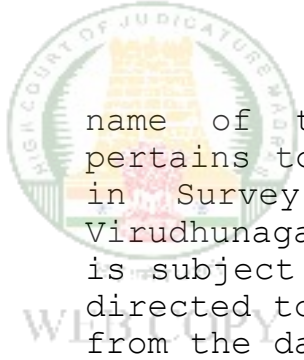
8.Though the third respondent has been served and she is represented by her counsel and that the fourth respondent has also been served and his name is also printed in the cause-list, there is no representation on their behalf.

9.This Court has carefully considered the rival submissions and perused the materials placed before it.

10.The fact remains that the suit in O.S.No.17 of 2008 filed by the appellant/writ petitioner, for a comprehensive relief of declaration, permanent injunction and mandatory injunction, came to be decreed on 03.10.2016 by the Court of the Subordinate Judge, Virudhunagar and according to the appellant/writ petitioner, so far no appeal has been filed, even after a lapse of two years, and as such the Judgment and Decree had become final.

11.The respondents 1 and 2 in the Writ Appeal, in the interim orders, has also indicated about the pendency of the said suit and granted liberty to the parties to work out their remedy through civil forum and admittedly, comprehensive suit filed by the appellant/writ petitioner decreed as prayed for and in the absence of further challenge, it has become final and according to the learned counsel appearing for the appellant/writ petitioner, it has reached its finality and no appeal has been filed.

12.In the light of the said development, this Writ Appeal is allowed and the impugned order, dated 25.01.2011 passed by the Collector of Virudhunagar District, in confirming the order, dated 02.03.2009 passed by the second respondent, is set aside and the



name of the appellant/writ petitioner in the revenue records pertains to the land admeasuring an extent of 16 acres and 58 cents in Survey No.722/1A, Erichanatham Village, Sivakasi Taluk, Virudhunagar District stands restored and it is made clear that it is subject to the legal interdict, if any. The second respondent is directed to carry out the said exercise within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the appellant/writ petitioner as well as to the respondents 3 and 4. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District.
2. The Revenue Divisional Officer,
Sivakasi.

+ 1 CC TO Mr.V.RAGHAVACHARI, ADVOCATE IN SR No. 55583
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 55539

PS

TE/SKN-RSK/SAR-1 : 28/03/2018 : 4P/5C

W.A(MD)No.510 of 2011
14.03.2018