

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 03.06.2019
CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI
W.P.No.40142 of 2005 and
W.P.M.P.No.43047 of 2005

K.Ramathal

.. Petitioner

Vs

1. The State of Tamilnadu
rep., by the Commissioner of Land
Administration,
Chepauk, Chennai - 600 005
2. The District Revenue Officer,
Coimbatore,
Coimbatore District
3. The Revenue Divisional Officer,
Tiruppur, Coimbatore - 4
4. The Arulmigu Sengunthar Mariamman
Thirukoil
rep. By its Managing Trustee
Perumanallur, Tiruppur

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st Respondent culminated by his proceedings in K4/40376/2005 dated 02.12.2005, quash the same and consequently, direct the 1st Respondent to grant stay in the revision petition filed by the petitioner dated 08.11.2005 and pass other orders.

For Petitioner : Mr.M.Mohideen Pitchai

For Respondents : Mr.Elumalai, GA for RR1 to 3

O R D E R

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in his proceedings, viz., K4/40376/2005 dated 02.12.2005, quash the same and consequently, direct the 1st Respondent to grant stay in the revision petition filed by the petitioner dated 08.11.2005.

2. The case of the petitioner is as follows:-

(a) The Petitioner had purchased the property, which is the

subject matter of the writ petition, measuring about 4146 Sq.Ft., consisting of land and building at Old Survey no.274/B1, 1A/1A/1A (Presently, Survey Nos.354/9 and 354/10 of Perumallur Village, Tiruppur Taluk, Coimbatore District) by way of a registered sale deed dated 26.05.1993 from one Kuppusamy and his son. Further, right from the date of purchase, the petitioner is in continuous possession and enjoyment of the property without any interruption whatsoever.

(b) Originally, one Chidambaram Mudaliar, was in possession of the property in question, who by virtue of the registered sale deed dated 30.05.1956 sold it to one Mariammal, wife of Vaiyapuri Mudaliar. After the death of the said Mariammal, the petitioner acquired the portion of the land from her legal heir, viz., Kuppusamy Mudaliar by way of a registered sale deed dated 28.01.1960. After the purchase of the subject property, the old survey numbers have been changed and the corresponding new survey numbers were assigned. Subsequently, the petitioner was paying house tax for Door No.3/73 to the Perumanallur Panchayat in Assessment No.361.

(c) While such being the factual position, through Land Settlement Proceedings in the year 1997, the Settlement Officer, Dharapuram while surveying the land, had wrongly included a portion of the property measuring about 267 Sq.ft belonging to this petitioner lying adjacent to the 4th Respondent's Temple under Survey No.354/9. Admittedly, the said survey number measures only 833 Sq.Mt, however, due to the said wrongful inclusion of the said 267 sq.mtr of land [which actually belongs to temple] to the petitioner in S.No.354/9, the total extent of land in Survey No.354/9 had increased to 1100 sq.mtr instead of 833 sq.mtr. In order to rectify the above said mistake, the petitioner applied to the Assistant Settlement Officer, Dharapuram by way of representation dated 03.03.1997 and requested to grant patta in her favour. The said officer after considering all the relevant documents, after conducting spot inspection and also after ascertaining the true facts from the local Revenue Officials, rectified the said mistake and granted patta in favour of the petitioner to the total extent of 380 Sq.Mtr, through his proceedings no.Mu.Ku.No.1402/97/A2 dated 17.03.1997.

(d) As against the above said order dated 17.03.1997, the 4th respondent, viz., Arulmigu Sengunthar Mariamman Thirukoil has filed an appeal before the 2nd Respondent, viz., the District Revenue Officer, Coimbatore. The 2nd Respondent without hearing the petitioner and without issuing notice, set aside the order of the Settlement Officer by an order dated 23.07.1998 and cancelled patta granted in favour of the petitioner. Being aggrieved against the same, the petitioner preferred a Revision

before the 1st Respondent herein on 18.09.1998. The 1st respondent after careful consideration of the facts and circumstances of the case and upon hearing both the parties and on perusal of relevant records allowed the revision filed by the petitioner by an order dated 10.04.2003 and as against the same, the 4th Respondent filed a Writ Petition No.16819 of 2003 before this Court. This Court by an order dated 07.07.2004 had set aside the orders of the 1st Respondent on the ground that no proper notice has been served on the petitioner by the respondents 2 and 3 and remanded the matter for fresh enquiry to the 3rd Respondent. In continuance, the 3rd Respondent herein, as per directions of this Court, after considering the entire materials, had passed an order in favour of the petitioner holding that 880 Sq.mt belongs to him. As against the same, the 4th Respondent/Arulmigu Sengunthar Mariamman Thirukoil herein, preferred an appeal before the 2nd Respondent and the 2nd respondent without proper appreciation of the records and the facts, has erroneously set aside the order of the 3rd Respondent and once again remanded the matter to the 3rd Respondent herein for fresh consideration with a direction to consider land tax and documents of the year 1910. Aggrieved by the said remand order, the petitioner filed a revision before the 1st Respondent. The 1st respondent after taking the revision filed by the petitioner had erroneously dismissed the stay application by way of the proceedings dated 02.12.2005 and as against which the present Writ Petition is filed.

3. The learned counsel for the petitioner would contend that this Court while entertaining the Writ Petition had granted an interim stay on 16.12.2005. He would further submit that since the Revision Petition is pending before the Revisional Authority, he seeks a direction to dispose of the same within a reasonable time and till then, the Interim Stay shall be continued.

4. The learned Government Advocate appearing for the respondents would concede the request made by the learned counsel for the petitioner and submit that a time limit may be fixed by this Court to dispose of the Revision Petition, which is pending before the Revisional Authority.

5. In view of the limited prayer sought for by the petitioner, the Revisional Authority, viz., the 1st Respondent is directed to dispose of the Revision Petition No.K4/40376/05 dated 02.12.2005 within a period of six weeks from the date of receipt of a copy of this order. Till then, the respondents shall not take any coercive steps against the petitioner. The Interim Stay already granted by this Court in W.P.M.P.No.43047 of 2005 on 16.12.2005 shall continue till the disposal of the Revision Petition and thereafter, the interim stay shall stand

automatically vacated without any further reference to this Court.

With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The State of Tamilnadu
rep., by the Commissioner of Land
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2. The District Revenue Officer,
Coimbatore,
Coimbatore District
3. The Revenue Divisional Officer,
Tiruppur, Coimbatore - 4

+1cc to Government Pleader sr.45400

+1cc to Mr.M.Mohideen Pitchai, Advocate sr.44839

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ssp(co)
nr 17/07/2019

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