

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.10.2019	Pronounced on: 31.10.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.21812 of 2018
& W.M.P.Nos.22320 of 2019 & 25591 of 2018

G.Gopal Pillai,
S/o.Govindaswami,
No.73, Chetty Street, Poonamallee,
Chennai - 600 056.

... Petitioner

/versus/

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The District Collector,
Kancheepuram.
3. The District Revenue Officer,
Kancheepuram.
4. A.Noor Mohammed,
The District Revenue Officer,
Kancheepuram.
5. The Tahsildar,
Tambaram Taluk.
6. Ranganayagi,
W/o.Munusamy (Late),
No.3, Thesamuthu Mariamman Koil Street,
Old Perungalathur, Chennai - 600 063.
7. Narayanan,
S/o.Sundaravarthan,
No.19A, Venkataswami Street,
Srinivasa Nagar, Peerkanaranai,
Chennai - 600 063.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the records of 3rd respondent herein in Na.Ka.No.22885/2017/No.3, dated 07.08.2018, to quash the same as illegal and pass orders.

For Petitioner : Mr.S.Parthasarathy, Senior Counsel
for Ms.S.V.Banu Priya

For R1, R2,
R3 & R5 : Mr.N.Inbanathan,
Additional Government Pleader

For R6 & R7 : Mr.V.Chandra Prabu

For R4 : No appearance

O R D E R

Heard the Learned Senior Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner claims that, he is the co-owner of the properties situated in S.No.236/1 (41 cents), S.No.239/1, (14 cents), S.No.117 (76 cents) in old Perugalthur Village, Tambaram Taluk. According to the petitioner, the said properties was purchased by his mother Muniyammal from one Mr.Ramanuja Reddy and A.Krishna Reddy. The Patta for these lands were erroneously transferred in the name of Mr.Kulla Pillai, who is the maternal uncle of the petitioner. Later, the error was rectified by the District Revenue Officer, Kancheepuram, by his order dated 25.01.2006. The order of the District Revenue Officer, Kancheepuram, was challenged by Muralidharan, the grand son of Kulla Pillai before the Commissioner of Land Reforms. The appeal filed by Muralidharan before the Commissioner of Land Reforms, was disposed on 07.08.2009 directing him to approach competent Civil Court for remedy. The said Muralidharan filed O.S.No.61 of 2010 before the District Munsif Court, Tambaram, challenging the order of the District Revenue Officer, Kancheepuram, dated 25.01.2006, for granting Patta in favour of the Petitioner. The said Muralidharan also filed three more suits and all the four suits were dismissed on 30.06.2019. Against the dismissal of the suits, Muralidharan has preferred Appeal suits before Sub-Court, Tambaram and same was pending in A.S.Nos.31 of 2016 to 34 of 2016. The said Muralidharan, pending suit in O.S.No.61 of 2010 also filed W.P.No.8682 of 2012 for the same relief challenging the validity of the order passed by the District Revenue Officer, dated 25.01.2006. When the suppression of fact was brought to the notice of the Court, the interim order was vacated. While so, Muralidharan has got transfer of patta in his name without

notice and on complaint to District Revenue Officer, after enquiry the mistake got rectified in favour of the petitioner vide order dated 18.09.2014.

3. The order of the District Revenue Officer, dated 18.09.2014 challenged by the 7th respondent who is a stranger to the property. Suppressing the orders passed by the Courts and the complaint which was pending before the Commissioner of Land Reforms, he has made a representation to the District Revenue Officer on 07.12.2017 and on his representation the District Revenue Officer, has passed order on 07.08.2018 which is challenged in this Writ Petition for the following reasons:-

The 3rd respondent/District Revenue Officer, Kancheepuram, has become functus Officio after passing order on 25.01.2006, which is subject matter of Appeal suit pending on the file of Sub-Court, Tambaram. The 3rd respondent has no jurisdiction to pass any order on the subject matter after the seizure of the matter by the Civil Court. Dispute regarding title cannot be decided by the Revenue Authorities. The 3rd respondent with malafide intention in collusion with 7th respondent has passed the impugned order based on the petition received from the 7th respondent, after reserving the matter for orders.

4. In the affidavit of the 6th and 7th respondents, filed in support of the petition to vacate the interim order, it is stated that Muniammal who is the mother of the petitioner purchased 41 cents out of 82 cents in S.No.236 from one A.Krishna Reddy under sale deed dated 02.12.1945. The remaining 41 cents was purchased by Ponna Pillai who is the brother of Muniammal, on the same day. Later Ponna Pillai died as bachelor intestate leaving his brother Kulla Pillai to inherit the property. Kulla Pillai later died leaving his son Munusamy as his sole legal heir. The 6th respondent/Ranaganayagi, who is the wife of Munusamy and Muralidaran is her pre-deceased son. The 41 cents of land purchased by Ponna Pillai in the year 1945 devolved upon his brother Kulla Pillai and then to Munusamy S/o.Kulla Pillai and then to Muralidaran S/o.Munusamy. The 7th respondent, by virtue of the Power of Attorney executed in his favour by Muralidaran in the year 2014 developed the land covering S.No.236/1B into housing site. The Revenue Officials granted approval for the layout after measuring and comparing the boundaries found in the documents. S.No.234 is owned by the petitioner and it is adjoining to S.No.236/1B of the 6th and 7th respondents. The layout approval was obtained for both the adjoining land as one composite unit. While granting Patta without verifying the boundaries of the respective parties as found in their title deed of the year 1945, the Tahsildar has issued Patta to the Writ Petitioner for land in S.No.236/1B and

patta to Muralidaran for land in S.No.236/1A.

5. Aggrieved by the said mistaken identity of property, Muralidaran filed appeal before the Revenue Divisional Officer on 10.11.2014. Pending Appeal, Muralidaran died on December 2016. The appeal preferred by Muralidaran did not proceed due to his death. The legal heirs of Muralidaran has given Power of Attorney to the 7th respondent and on the strength of the said Power of Attorney deed, the 7th respondent proceeded with the appeal filed by Muralidaran in the year 2014. In continuation of the appeal, he gave representation to District Revenue Officer to rectify the error crept in while issuing Patta in respect of the land comprised in S.No.236.

6. Pursuant to the appeal by Muralidaran followed by the representation of the 7th respondent, the 3rd respondent has ordered fresh physical inspection of the land and to issue patta based on the boundaries as mentioned in the respective sale deeds.

7. The 6th and 7th respondent, in their counter contends that, fresh inspection of the field and identifying the respective land as per the boundaries is noway going to prejudice the right of the petitioner nor it is an act of interfering the matter pending before the Civil Court. The order impugned in this Writ Petition is a direction given by the District Revenue Officer to the Tahsildar, Tambaram, to examine the document No.2085/1945 and to ascertain whether the 41 cents of land in S.No.236 mentioned in the deed is same or different from the property in S.No.236/1B, which is the subject matter of appeal pending before the Commissioner of Land Reforms. If they are not the same but different, then measure the land as per the documents and issue patta to the respective parties. In this order, the 3rd respondent has also clarified specifically that the said instruction is passed to the Tahsildar based on the submission by the Appellants (Muralidaran and others) that the land in dispute pending adjudication before Commissioner of Land Administration is not the property for which patta sought in the proceedings before him. The petition which is referred as matter pending before Commissioner of Land Administration in the impugned order had in fact disposed by Commissioner of Land Administration on 13.08.2018 a week after the impugned order. In his order, the Commissioner of Land Administration has directed the petitioners to pursue their remedy before the Civil Court by challenging the dismissal of their suit in O.S.No.61 of 2010. In fact already they have preferred appeal and same is pending.

8. In this Writ Petition, the challenge to the impugned order is on two folds.

(i). When the respondent has resort to redressal before the Civil Court, the District Revenue Officer ought not to have passed the impugned order to verify the documents and measure the field based on the title deeds of the parties and issue Patta.

(ii). It is contended that while the petition before the Commissioner of Land Reforms is pending, the 3rd respondent ought not to have entertained the petition.

9. Out of 82 cents in the composite S.No.236, the petitioner claim 41 cents based on the sale deed executed in favour of Muniammal and the 6th and 7th respondent claim 41 cents tracing their title through the sale deed executed in favour of Ponna Pillai. Both the Sale deeds were executed and registered on the same day and as consecutive documents.

10. The impugned order is well reasoned. After tracing the checkered proceedings since 2006 regarding the patta of the property, the District Revenue Officer has passed the order directing the Tahsildar to first examine the documents and then measure the field to identify the respective portion of the property. When parties trace the title from two different documents executed on the same day and each document is in respect of 41 cents out of 82 cents in S.No.236, after UDR, it appears that while sub-division of the properties into S.Nos.236/1A and 236/1B, some error has crept in identifying the respective portion. According to the 6th & 7th respondents, the said error was subsequently rectified but reversed again in the year 2014. Hence, the respondent has sought for rectification.

11. The best way to sort out the issue is to examine the documents and identify the two halves of 82 cents transferred under document Nos.2084 & 2085 of 1945. Precisely, the 3rd respondent after examine the documents and respective plea has arrived at the said conclusion. Even in the Civil suit, if the parties have clear title for their respective 41 cents but doubt prevails in the identity of its location, without measuring the field and marking the boundaries as per the documents, the dispute could not be decided.

12. Therefore, this Court finds no legal force in the Writ Petition to interfere the impugned order. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CSII)

/true copy/

Sub Asst. Registrar

To,

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The District Collector,
Kancheepuram.

3. The District Revenue Officer
Kancheepuram

4. The Tahsildar, Tambaram Taluk.

+2 ccs to Ms.S.V.Banu Priya Advocate sr90496

+1 cc to Mr.V.Chandra Prabu Advocate sr90462

Pre-delivery order in
Writ Petition No.21812 of 2018

rsk(co)
aa14/11/2019