



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

**THE HONOURABLE DR.VINEET KOTHARI,
ACTING CHIEF JUSTICE**

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. [MD]No.646 of 2019

and

C.M.P. [MD]No.5434 of 2019

- 1.The District Collector,
Sivagangai District,
Sivagangai.
 - 2.The District Revenue Officer (DRO),
Sivagangai,
Sivagangai District.
 - 3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
 - 4.The Tahsildar,
Karaikudi Taluk Office,
Karaikudi, Sivagangai District. : Appellants/Respondents
- Vs.
- K.Kumar : Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order passed in W.P.[MD]No.17629 of 2013 dated 09.03.2017 by allowing this Writ Appeal.

Prayer in WP(MD). 17629/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 2nd respondent dated 19.12.2012 in Na.Ka.No.Pl.29360/2012 and quash the same in so far as denial of granting patta in respect of S.Nos.173/1, 173/5, 175/3 and forbearing the respondents and his men, agents, persons claiming under him from interfering with the peaceful possession and enjoyment of the petitioner of his properties comprised in S.No.173/1 of an extent of 0.46.0 ares and S.No.173/5 having an extent of 0.37.0 ares and S.No.175/3 of an extent of 0.61.0 ares in Variyanvayal Village, Variyanvayal Group, Poiyalur Panchayat, Kallal Taluk, Karaikudi, Sivagangai District.



For Appellants : Mr.A.K.Baskara Pandian
Special Government Pleader
For Respondent : Mr.R.Sundar Srinivasan

WEB COPY

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J**]

This intra court appeal is directed against the order dated 09.03.2017, allowing W.P.[MD]No.17629 of 2013, filed by the respondent herein. The respondent herein contended that his father Late.Kuppamuthu purchased the properties comprised in S.Nos.173/1, 173/5 and 175/3, Variyanvayal Village, Cariyanvayal Group, Poyalur Panchayat, Karaikudi Taluk, Sivagangai District vide registered documents of the years 1990 and 1991. Since certain civil disputes arose, his father filed O.S.Nos.4 and 92 of 1994, on the file of the Subordinate Court, Devakottai. In O.S.No.92 of 1994, apart from various private defendants, the Government of Tamil Nadu was also a party. The suits were decreed in favour of his father on 10.03.1995. Challenging the same, the private defendants preferred appeals. They were dismissed on 11.06.1996. After succeeding in the civil proceedings, Kuppamuthu filed W.P.[MD]No.2689 of 2005, before this Bench seeking restoration of his name in the revenue records. The writ petition was opposed by the revenue authorities. After hearing both sides, vide order dated 09.07.2009, the writ petition was disposed of and the authorities were directed to adjudicate the issue with regard to transfer of patta in favour of Kuppamuthu, in the light of the judgment and decree dated 10.03.1995 made in O.S.No.92 of 1994 and in accordance with law.

2.Based on the outcome of the writ proceedings, the respondent K.Kumar, submitted a representation dated 21.09.2012, seeking mutation of patta in his favour. The said request was rejected by the impugned order dated 19.12.2012. The stand of the District Revenue Officer, Sivagangai was that there was nothing to show that the applicant was in possession of the lands in question. This order was put to challenge by the first respondent in W.P.[MD]No.17269 of 2013. The same was allowed by the impugned order dated 09.03.2017.

3.We heard the learned Special Government Pleader appearing for the appellant and learned Counsel appearing for the respondent and carefully considered the rival contentions.

4.It is not in dispute that the earlier order dated 09.07.2009 made in W.P.[MD]No.2689 of 2005, had become final as it was not challenged by the authorities. In the said order, the authorities were directed to take a decision in the light of the judgment and decree dated 10.03.1995 in O.S.No.92 of 1994. Therefore, the scope of adjudication was rather limited. When it is seen that the said



suit proceedings ended in favour of the writ petitioner's father, the authority was obliged to issue the patta as sought for. By taking the stand that there are no trees in the lands in question and that they are not in possession of the writ petitioner, the authority had clearly acted contrary to the earlier direction issued by this Court. We are therefore satisfied that the learned Single Judge rightly allowed the writ petition and no case has been made out for interference. There is absolutely no merit in this Writ Appeal.

5. Accordingly, the Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

MR/MPK

+1 CC to Mr.R.SUNDAR SRINIVASAN, Advocate (SR-96573[F]dated 07/11/2019)

+1 CC to SPL GP (SR-96655[F] dated 07/11/2019)

JUDGMENT MADE IN
W.A.[MD]No.646 of 2019
Dated: 06.11.2019

VB(18.12.2019) 3P 3C