



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.5192 of 2015
and
W.M.P (MD) .No.1 of 2015

Savuriyammal @ Pappammal

... Petitioner

Vs

1.The District Revenue Officer,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Paramakudi Division,
Ramanathapuram District.

3.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

4.Palanisamy Nadar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in Pa.Mu.P5/120838/2013 dated 18.03.2015 issued by the first respondent and quash the same and consequently direct the respondents to issue patta to the petitioner in respect of her property in S.No.56/2 and S.No.56/4, Venthoni Village, Paramakudi Taluk, Ramanathapuram District.

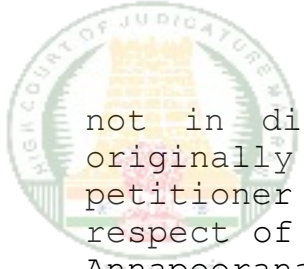
For Petitioner : Mr.R.Gowrishankar

For R1 to R3 : Mr.M.Karuppasamy
Government Advocate

For R4 : Mr.Chandrasekar

ORDER

Heard the learned counsel on either side.



not in dispute that in the revenue records one Arulanandu was originally shown as the owner of the said property. The writ petitioner herein is the granddaughter of the said Arulanandhu. In respect of these two items there was a mutation of name in favour of Annapooranathammal, who is none other than the mother of the fourth respondent herein. The said Annapooranathammal had purchased the said items vide sale deed dated 17.10.1967 from one Gnanamuthu konar, who was the power agent of Mariam Vakaiyara.

3.The writ petitioner herein filed O.S.No.120 of 1982 on the file of the District Munsif Court, Paramakudi against her sister Mariasironmaniammal and eight others. The mother of the fourth respondent figured as the ninth defendant in the said suit. The suit was decreed and preliminary decree was passed in favour of the writ petitioner on 10.01.1985. The learned trial Judge had framed an issue as to whether the sale deed dated 17.10.1967, which was marked as Ex.P.7, was valid and whether it was binding on the writ petitioner/plaintiff. An answer was given in favour of the writ petitioner that the alienations are not binding on the plaintiff/writ petitioner herein. It was further observed that the sale deed was vitiated by fraud.

4.The matter was taken up in appeal in A.S.No.67 of 1985 on the file of the Subordinate Court, Ramanathapuram. The First Appellate Court also confirmed the decision of the trial Court. S.A.No.1702 of 1987 was filed before the High Court. The fourth respondent herein figured as the eight appellant in the said second appeal. The High Court also dismissed the second appeal dated 13.12.1999. After the conclusion of the said civil proceedings, the writ petitioner herein filed an application before the Tahsildar, Paramakudi for transfer of patta in her favour. The third respondent by order dated 06.09.2011 allowed the petitioner's application and effected transfer of the name from that of the fourth respondent to that of the writ petitioner herein.

5.Challenging the same, the fourth respondent filed an appeal before the Revenue Divisional Officer, Paramakudi, who set aside the order passed by the Tahsildar. Questioning the order of the Revenue Divisional Officer, Paramakudi, dated 06.04.2012. the petitioner filed review before the very same authority. The review also went against the writ petitioner. Against the same, the petitioner filed a revision before the District Revenue Officer, Ramanathapuram. The first respondent by order dated 18.03.2015 dismissed the petitioner's revision petition. Challenging the same this writ petition has been filed.

6.The learned counsel appearing for the fourth respondent wanted this Court to sustain the order impugned in this writ petition. He would point out that the partition proceedings have attained finality and the petitioner has filed E.P.No.26 of 2008. In the Execution Petition schedule, the present survey No.56/2 and 56/4 have not been mentioned. His contention is that since the



petitioner has not established her right over the properties in question it is only just and proper that she institutes a fresh civil suit making the fourth respondent /contesting defendant by including these survey numbers in the suit schedule.

7. After considering the rival contention, I am of the view that the issue on hand lies within a very narrow compass. The property stood in the name of Arulanandu. Thereafter, it was changed in the name of Annapooranathammal, who is the mother of the fourth respondent. The change in the revenue record was done based on the sale deed dated 17.10.1967 executed in favour of Annapooranathammal. In the suit proceedings to which the fourth respondent was a party, it was categorically held that the said sale deed was null and void.

8. In fact the fourth respondent's mother was originally shown as the ninth defendant in the suit. During the litigation, she passed away. Therefore, the fourth respondent filed S.A.No.1702 of 1987 before the Madras High Court. By a very elaborate order the second appeal filed by the fourth respondent along with others was dismissed on 13.12.1999.

9. In fact, before the High Court, the fourth respondent had pleaded that his possession in terms of the sale deed dated 17.10.1967 must be protected. But then, the High Court was not swayed by the aforesaid submission. The fact remains that ultimately the second appeal suffered a dismissal. When the mutation in favour of the fourth respondent was done on the basis of a sale deed and the said sale deed was nullified in civil proceedings, the revenue authority ought to act in tune with the decision taken by the civil Court.

10. Therefore, the third respondent rightly ordered the transfer of patta in the name of the writ petitioner. The Revenue Divisional Officer as well as the District Revenue Officer erred in interfering with the well considered order passed by the third respondent. I therefore set aside the order impugned in this writ petition. The Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)



To

- 1.The District Revenue Officer,
Ramanathapuram District.

WEB COPY

- 2.The Revenue Divisional Officer,
Paramakudi Division,
Ramanathapuram District.
- 3.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

+1 CC to Mr.R.GOWRISHANKAR, Advocate SR-57896
+1 CC to SPL GP SR-57928.
+1 CC to Mr.S.SIVA THILAKAR, Advocate SR-58156.

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CS: (13/06/2019) 4P 7C