



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S. S. SUNDAR**

and

THE HONOURABLE **MR. JUSTICE C. SARAVANAN**

W.P(MD)No.16957 of 2017 and

W.M.P.(MD)No.13525 of 2017

Murugan

... Petitioner

Vs.

1.The District Revenue Officer,
District Revenue Office,
Tuticorin District.

2.The Sub Collector,
Tuticorin District.

3.The Tahsildar,
Srivaikundam,
Tuticorin District.

4.Esakiyadum Perumal Pillai Chatram,
Represented by its Trustee,
C.Shanmugam,
Karunkulam, Srivaikundam,
Tuticorin District.

... Respondents

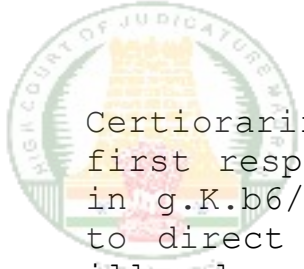
Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent herein / Revisional Authority in his proceedings in U.P.No.6/3205/2017, dated 07.08.2017, signed on 08.08.2017 and quash the same as illegal and further direct the respondents 1 to 3 herein to restore Patta No.789 in respect of Survey No,160/2, to an extent of 0.93.0 Hectare (2 Acres 30 Cents), Karunkulam Village, Srivaigundam Taluk, Tuticorin District within the time frame as may be stipulated by this Court.

For Petitioner	:Mr.V.Meenakshi Sundaram,
	for Mr.D.Nallathambi
For R1 to R3	:Mr.R.Sethuraman
For R4	:Mr.J.Ashok

ORDER

<https://hcservices.ecourts.gov.in/hcservices/> Order of the Court was delivered by **S. S. SUNDAR, J.)**

This petition has been filed for issuance of Writ of



Certiorarified Mandamus, to quash the impugned order passed by the first respondent herein / Revisional Authority in his proceedings in g.K.b6/3205/2017, dated 07.08.2017, signed on 08.08.2017 and to direct the respondents 1 to 3 herein to restore the same as illegal and further directed the respondents 1 to 3 herein to restore Patta No.789 in respect of Survey No,160/2, to an extent of 0.93.0 Hectare (2 Acres 30 Cents), Karunkulam Village, Srivaigundam Taluk, Tuticorin District within the time frame as may be stipulated by this Court.

2.The petitioner states that he is the owner of a land measuring to an extent of 2 Acres 56 cents in S.No.160/1 and to an extent of 2 Acres 30 Cents in S.No.160/2 in Karungulam Village, Tuticorin District. It is also stated by the petitioner that the entire land referred to above was purchased by the petitioner by way of a registered sale deed, dated 20.02.1995. It is also stated by the petitioner that the petitioner obtained patta for S.No.160/2 and joint patta in respect of S.No.160/1. It is further stated in the affidavit that the legal heir of one Sankarapandi Thevar, claims right over an extent of 2 Acres in S.No.160/1, which was also purchased by the said Sankarapandi Thevar from the same vendor, from whom the petitioner purchased the property.

3.Since there was a dispute with regard to title and enjoyment in respect of an extent of southern 2 Acres in S.No.160/1, a suit came to be filed in O.S.No.33 of 2009 by the legal heirs of Sankarapandi Thevar, against the writ petitioner. Though the said suit was decreed and the first appeal was also dismissed, it is stated that the second appeal in S.A.(MD)No.775 of 2012 filed by the petitioner is pending before this Court. It is further stated that another suit in O.S.No.81 of 2009 was filed by the fourth respondent in the writ petition, before the Subordinate Court, Tuticorin against the petitioner and that the said suit is pending. Yet another suit was also filed in O.S.No.107 of 2015 by the fourth respondent as against the legal heirs of the said Sankarapandi Thevar and the said suit is also pending. It is stated that the petitioner was also compelled to file yet another suit in O.S.No.53 of 2017 before the Subordinate Court, Tuticorin, against the legal heirs of said Sankarapandi Thevar and that the said suit is also pending.

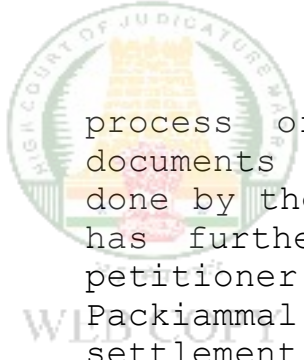
4.The petitioner has further stated that the fourth respondent submitted a petition, dated 19.08.2016 before the second respondent for change of patta in the name of fourth respondent herein in respect of land measuring to an extent of 2 Acres 56 cents in S.No.160/1 and to an extent of 2 Acres 30 Cents in S.No.160/2 in Karungulam Village. It is further alleged that the second respondent decided the title between the parties and issued a patta that was granted in favour of the petitioner ignoring the fact that few Civil suits are pending before the Civil Court, wherein, title is in issue.



5.As against the order of the second respondent, the petitioner has preferred an appeal before the first respondent. It is further alleged that in the meanwhile, the land in S.Nos.160/1 and 160/2 were acquired for construction of a bridge called "Karungulam-Kongurayankurichi Bridge". The said project was completed under NABARD scheme. By implementing the project, the land had already been taken and the river bridge also has been constructed. The writ petitioner was asked to execute a gift deed for the portion of the land acquired from him. Since the dispute regarding the title pending before the Civil Court, it is submitted by the petitioner that he could not consent for acquisition. Regarding claim of compensation and other issue relating to the acquisition, the petitioner has already filed a writ petition in W.P.(MD)No.19 of 2017. The said writ petition was disposed of with direction to the official respondents to acquire the land and to deposit the compensation amount to the credit of civil suits pending. An appeal filed by the petitioner in Writ Appeal in W.A.(MD)No.1014 of 2017 is also pending. The petitioner filed another writ petition in W.P.(MD)No.4370 of 2017 questioning the order passed by the District Revenue Officer, dated 25.02.2017 and to direct the respondents 1 to 3 to restore patta in respect of S.No.160/1 to an extent of 2 Acres 56 Cents in Karungulam Village. It is seen that similar order was passed on 07.08.2017 by the District Revenue Officer in respect of S.No.160/2 confirming the order of Sub-Collector, dated 18.01.2017 cancelling the patta, that was issued to the petitioner. The District Revenue Officer while passing the order examined the source of title for the petitioner in respect of S.No.160/2.

6.The petitioner has purchased the property by a sale deed, dated 20.02.1995 from one S.Subbuthai. The executant has described herself as the daughter-in-law of one Manthiram @ Rajamaniammal. The property purchased by the petitioner under the said sale deed is an extent of 2 Acres in S.No.160/1 and an extent of 2 Acres 30 Cents in S.No.160/2 in Karungulam Village. The executant of the sale deed claimed title on the basis of a registered Will, dated 28.04.1977, which was registered in the Sub Registrar, Tiruchendur. As per the recitals of Will, which was relied upon as a source of title for executing the sale deed, dated 20.02.1995, it is seen that one Manthiram @ Rajamaniammal who is the adopted daughter of one Chellam @ Packiammal executed the Will by treating the property as her absolute property.

7.It is also seen that the Will was only in respect of two items, namely an extent of 74 cents in S.No.229/5 and an extent of 91 cents in S.No.233/4, in Karungulam Village. Hence, the title conveyed by the testator of the Will is only 1 Acre 65 cents. That



process of reasoning, this cannot be found out by admitted documents produced before this Court. The same exercise has been done by the District Revenue Officer. The District Revenue Officer has further found that the property in respect of which the petitioner claimed title was originally belonged to one Sellam @ Packiammal. However, the said Sellam @ Packiammal had executed a settlement deed, dated 30.11.1937 creating a Trust in respect of S.Nos.160/1 and 161/2. As per the settlement deed, the said Manthiram @ Rajamaniammal had no title and that no one can alienate the property. However, the petitioner claims title under the sale deed, dated 20.02.1995 in respect of S.No.160/1 and S.No.160/2 in Karungulam Village from one Subbuthai, who in turn claimed to have obtained the property under the 1977 Will, which did not convey the property in S.No.160/1 and S.No.160/2.

8.The petitioner is therefore claim title under a person, who had no title and who cannot execute the registered sale deed or conveyance in favour of the petitioner in respect of S.No.160/1 and S.No.160/2. It is on the analysis of documents, the District Revenue Officer has confirmed the order passed by the Revenue Divisional Officer, deleting the name of the petitioner from the patta. Having regard to the admitted facts, this Court do not find any infirmity or irregularity in the order passed by the District Revenue Officer. The property in dispute is stated to be a property of public Trust as per settlement and the contentions of the petitioner is self contradictory. This Court has a reasonable doubt as to the *bona fide* nature of transaction, under which the petitioner claim title. The sale deed has been registered in Kerala. Hence, this writ petition is dismissed. The order passed by the first respondent, dated 07.08.2017 is confirmed. It is open to the petitioner to establish his right before the Civil Court and to approach the revenue authorities thereafter, in case, he gets declaration of title in the manner known to law. Connected, miscellaneous petition is also closed.

9.A peculiar stand was taken by the petitioner before the revenue authorities that the boundary description of the property purchased by the petitioner in the year 1995 corresponds to the boundary description of the property, which was bequeathed in favour of his vender under 1977 Will. The fact ascertained by the revenue authorities is that S.Nos.160 / 1 and 160/2 remain the same before and after settlement pursuant to the Estate Abolition Act. It is in these circumstances, the stand taken by the petitioner is peculiar and cannot be accepted. The settled principle that boundary prevails over extent can be applied in a case where the extent is approximately given. However, when there is discrepancies in survey number and extent, the statement of the petitioner relying upon boundary would show *prima facie* the ~~conduct of the petitioner~~ *conduct of the petitioner* in making an attempt to get compensation and to exercise the right of ownership is by taking advantage of the fact there is no one to



protect the interest of the Trust. In any event, every attempt has to be made by the Court to protect the interest of public Trust.

10. Though the petitioner is not ready in other connected matters, which are posted along with this petition, Registry is directed to make enough number of copies of this order and place them in all the connected writ petitions and writ appeals to ensure that the order passed in this writ petition is taken note of while disposing them.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Revenue Officer,
District Revenue Office,
Tuticorin District.
2. The Sub Collector,
Tuticorin District.
3. The Tahsildar,
Srivaikundam,
Tuticorin District.
4. The Registrar Judicial
Madurai Bench of Madras High Court,
Madurai
5. The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.J.ASHOK, Advocate (SR-44257[F] dated 01/02/2019)

+1 CC to M/s.SPL GP (SR-44983[F] dated 05/02/2019)

cmr

W.P (MD) No.16957 of 2017
01.02.2019

KM/ (02.04.2019) 5P 8C