



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2019

CORAM

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

W.P. (MD).No.18219 of (*)2015

Sakthivel

.. Petitioner

Vs.

1.The Tahsildar,
Vedasandur Taluk,
Dindigul District.

2.Subramani

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of first respondent in his proceedings in Mu.Mu.No.11720/2015/AA3, dated 18.09.2015 and quash the same and consequently directing the first respondent to maintain the revenue records as earlier before 18.09.2015.

For Petitioner : Mr.A.Kannan

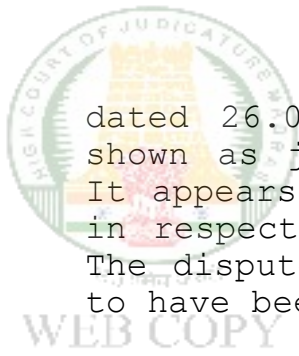
For Respondent 1 : Mr.A.Thiyagarajan
Government Advocate

For Respondents 2 : Mr.M.Govindan
for Mr.s.Kameswaran

ORDER

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the proceedings of the first respondent, dated 18.09.2015 and to direct the first respondent to maintain the revenue records as earlier before 18.09.2015.

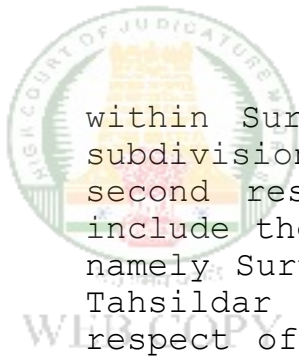
2.The petitioner claimed to have purchased agricultural land measuring an extent of 3 acres 98 cents in (*)**Survey No.663/3C** and 10 cents in Survey No.663/3B in R.Kombai Village, Vedasandur Taluk, Dindigul District. The petitioner purchased the property from one Sanga Konar and his family members through a registered sale deed



dated 26.02.2009. It is admitted that the said Sanga Konar was shown as joint pattadhar in Survey No.663/3B before sub division. It appears that the petitioner's name alone was shown in the patta in respect of Survey No.663/3C for an extent of 3 acres 98 cents. The dispute relates to 7 cents in Survey No.663/3C which is stated to have been purchased by the second respondent.

3.The second respondent produced before this Court a sale deed under which his father purchased an extent of 25 cents of land in Survey No.663/3 with reference to four boundaries. The property purchased by the father of the second respondent is on the south eastern corner of the total extent of 4 acres 26 cents in Survey No.663/3. The learned Counsel appearing for the petitioner referring to the Survey Plan submitted that the petitioner is now claiming patta for three different parcels of land namely an extent of 10 cents in Survey No.663/3B and an extent of 8 cents in Survey No.663/3A and another extent of 7 cents in Survey No.663/3C. Referring to the title deed, the learned Counsel appearing for the petitioner submitted that the property purchased by the second respondent's father with reference to the four boundaries as per his title deed do not tally with the claim of the second respondent as per the subdivision. Since the second respondent's father purchased a single plot which lies on the south eastern side of the entire extent of 4.26 acres in Survey No.663/3, it is contended by the petitioner that the Revenue Officials without considering the documents of title and the boundary, recitals have granted patta recognising the holdings of the second respondent in different parcels of land in Survey No.663/3.

4.The learned Counsel appearing for the second respondent relied upon a sale deed under which the petitioner purchased the property claimed by him. As per this document, the petitioner has purchased an extent of 3 acres 98 cents equivalent to 1.61.0 hectare in Survey No.663/3C and another extent of 10 cents in Survey No.663/3B. Referring to the description of the property in the document whereunder the petitioner has purchased a half right in the well in Survey No.663/3B, it is pointed out that the petitioner shown himself as the owner of property on the northern side of one Raju. It is then suggested that the petitioner has admitted title of second respondent's father in respect of the property lies on the northern side of the property purchased by the petitioner. The Survey plan with reference to the measurements of all the subdivisions in Survey No.663 is produced before this Court by the second respondent himself. The land in Survey No.663/3 has been subdivided in 2009. As per Survey plan and the rough sketch, it is contended by the second respondent that the second respondent is using survey No.663/3C for laying pipe line to draw water from the well in Survey No.663/3A. The second respondent seems to have approached the Tahsildar for modification of records. From the proceedings of the Tahsildar dated 18.09.2015, it appears that the



within Survey No.663/3A. However, the total extent available in subdivision in Survey No.663/3A was only 8 cents and therefore, the second respondent applied for modification of records so as to include the holdings of the second respondent in other subdivisions namely Survey No.663/3B and 663/3C. Enquiry was conducted by the Tahsildar based on the documents. Though there was a dispute in respect of Survey No.663/3B earlier, by orders of District Revenue Officer, the petitioner was given an extent of 10 cents in Survey No.663/3B and similar extent of land was also recognized in the name of the second respondent. Insofar as Survey No.663/3C is concerned, the contention of the second respondent is that a portion of the property is under the enjoyment of the second respondent for laying pipe line to draw water from the well in (*) **Survey No.663/3A** to his property in the other survey numbers which was purchased by him independently. The Tahsildar relied upon the statement of the Village Administrative Officer who has deposed to the effect that the second respondent was using Survey No.663/3C for the purpose of laying pipe line and that the second respondent is in enjoyment of a portion of the property in Survey No.663/3C. Thus, the Tahsildar on the basis of the statement given by the Village Administrative Officer about the enjoyment of the property by the second respondent recognised the title of the second respondent in respect of a portion of the land in the property in Survey No.663/3C which was earlier registered in the name of the petitioner. The order of Tahsildar by conferring right in favour of the second respondent modifying the prior subdivision is not authorised. When the subdivision proceedings were finalised earlier in 2009, the same has been altered on the basis of the statement of the individual claiming rights and not on the basis of the document of title or prior revenue records. However, the contention of the second respondent that he is in enjoyment of the specific extent of land in three independent survey subdivisions cannot be ignored as a whole. Hence, this Court is of the view that the dispute with regard to title in respect of specific portions of the property in Survey No.663/3B or 3C or 3A can be decided only by a competent civil court as such decision requires adjudication of disputed question of facts based on oral and documentary evidence. In that view of the matter, this Court is of the view that until such course is exhausted, it is better for this Court to restore the patta as it was prior to the order passed by the Tahsildar since this Court has also found that the order of Tahsildar modifying the records based on the statements of the individual witnesses without reference to documents of title and prior revenue records is illegal. Having regard to the issues, as discussed and considered earlier, the impugned order of Tahsildar dated 18.09.2015 is quashed and the first respondent is directed to restore the revenue records as it was before the impugned order dated 18.09.2015. However, it is open to either one of the parties to approach the Civil Court to establish their title in respect of the specific portion as claimed by them in this Writ Petition. When the Civil Court entertain the suit, the same shall be disposed of in accordance with any of the observations made in this Writ Petition.



5.In the result, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

**(*) Amended as per order of this
Hon'ble Court dated 23.01.2020**

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

SRM

To

(*) To be Substituted the order already despatched on 09.01.2020

The Tahsildar,
Vedasandur Taluk,
Dindigul District.

+1 CC to M/s.A.KANNAN, Advocate (SR **2607**)

+1 CC to M/s.SPL.GP (SR-105913[F] dated 19/12/2019)

+1 CC to M/s.S.KAMESHWARAN, Advocate (SR-106299[F] dated 20/12/2019

ORDER MADE IN
W.P. (MD) No.18219 of 2015
18.12.2019

JMN(09.01.2020) 4P : 5C
sma/30/01/2020/4p/5c