



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.12.2019
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.25684 of 2019

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Balasubramanian

... Petitioner

vs.

1.The District Collector,
Dindigul - 624 001,
Dindigul District.

2.The Revenue Divisional Officer / Sub Collector,
Office of the Revenue Divisional Officer,
Palani, Dindigul District.

3.The Tahsildar,
Taluk Officer,
Vedasandur- 624 710,
Vedasandur Taluk,
Dindigul District.

4.Sankar

5.Karthik

6.Nagaraj

7.Nallusamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the second respondent to take adequate steps to complete the proceedings pending before the second respondent for patta transfer within the time stipulated by this Court.

For Petitioner : Mr.R.Senthil Kumar

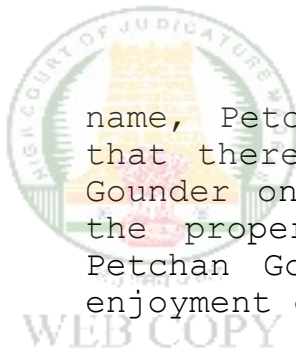
For R1 to R3 : Mr.A.K.Baskara Pandian

Special Government Pleader

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus to direct the second respondent to take adequate steps to complete the proceedings pending before the second respondent for patta transfer within the time stipulated by this Court.

2.The petitioner has stated in his affidavit that the property which is the subject matter of this Writ Petition originally belonged to one Perumal Gounder and that after the demise of Perumal Gounder, the property had devolved upon his sons, by



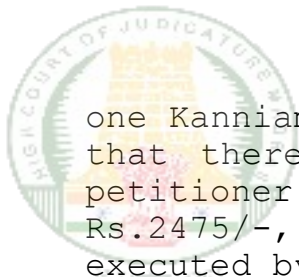
name, Petchan Gounder and Veerasanga Gounder. It is also stated that there was a partition between Petchan Gounder and Veerasanga Gounder on 05.08.1963, by a registered partition deed. Therefore, the properties, which are allotted to the petitioner's father, Petchan Gounder in the partition deed, are stated to be in the enjoyment of the petitioner.

3.Strangely, the petitioner himself admitted that the revenue records and patta have not been mutated and separate patta was not given in the name of Petchan Gounder or his legal heirs. It is further stated that the petitioner preferred a detailed representation to the respondents on 12.08.2017. The first respondent forwarded the representation to the third respondent for necessary action. However, the third respondent though conducted an enquiry, has not conducted survey or measurements of the property as per the documents of title or revenue records. The petitioner has earlier filed a writ petition in W.P.(MD)No.2911 of 2018 and this Court has passed the following order:

"2.According to the petitioner, the properties situated in S.Nos.717/1A, 718/1A, 718/7A2, Sukkampatti Village, Vedasanthur Taluk, Dindigul District, originally belongs to his joint family, after a partition entered into between the petitioner and his brothers, the petitioner has submitted an application, dated 04.12.2017 before the respondents seek to measure and fix boundaries of the property and has also paid necessary fee. Since no action has been taken so far, the present writ petition has been filed.

3.considering the facts and circumstances of the case and considering the fact that the petitioner only seeks to measure his land by fixing boundaries, the third respondent is directed to measure the property in question as per the revenue records, within a period of six weeks from the date of receipt of a copy of this order, after issuing notice to the petitioner as well as to the other interested parties, if any."

4.The facts stated in the affidavit though indicate that the petitioner's claim as legal heir of Petchan Gounder is established, this Court has seen that the petitioner has given a complaint before the Deputy Superintendent of Police, Vedasandur, Dindigul District, wherein, it is stated that the said Petchan Gounder along with his sons has sold the property to one Nallusamy, son of Sadayappa Gounder, and that the purchasers have agreed to reconvey the property by agreement, dated 25.11.1970. It is further stated that the said Nallusamy executed a sale deed in respect of few properties covered under the sale deed, dated 25.11.1970. It is further stated that the lands, which were re-conveyed in favour of the petitioner's father and his brother, were also sold in favour of



one Kanniammal, wife of Velu Gounder. Though the petitioner states that there was an agreement between the said Kanniammal and the petitioner's father regarding reconveyance upon payment of a sum of Rs.2475/-, it is admitted that no document of re-conveyance was executed by the said Kanniammal.

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5.It is also further stated that the said Kanniammal has impersonated the petitioner's paternal uncle, as if he had relinquished the property by a document, dated 04.01.1988. It is in those circumstances, the petitioner's father has prayed for taking criminal action against Kanniammal in the representation, dated 09.11.2018. Similar representation was given by the petitioner's father on 09.07.2018 as against Nallusamy for selling some of the properties during the subsistence of agreement for re-conveyance. Having admitted the execution of sale deed with the right to get property under re-conveyance, the petitioner has now come forward with the present Writ Petition to measure the properties, which is in dispute. Since the cloud over title has been admitted, the petitioner may approach Civil Court for appropriate relief. Without setting asiding the sale in favour of third parties, the petitioner's claim for ownership cannot be accepted.

6.Having regard to the above stated circumstances, this Writ Petition is dismissed with the liberty to the petitioner to approach the Civil Court for appropriate relief as against the persons, who have either cheated the petitioner or failed to reconvey the property as per the agreement. No costs.

Sd/-

Assistant Registrar (records)

// True Copy //

Sub Assistant Registrar(CS)

Cmr

To

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+1 CC to SPL GP (SR-103411[F] dated 04/12/2019)

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MK (30.12.2019) 4P 5C

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