

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 11271 of 2016
and W.M.P.Nos. 9774 & 9775 of 2016

The Madras Co-operative Building Society Ltd.,
Represented by its Secretary,
G.Tamizhselvi,
No.101, Vellala Street, Pурсawalkam,
Chennai - 84.Petitioner

-vs-

1. The Revision Authority/District Revenue officer,
Thiruvallur District, Thiruvallur.
2. Sub-Division Magistrate Cum Sub-Collector,
Ponneri, Thiruvallur District.
3. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai.
4. Pachaiaammal
5. Govindammal @ Ruth ... Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus,
calling for the records relating to the second respondent
herein in Na.Ka.No.6521/2005/A1 dated 17.2.2006 and the
consequential order passed in Revision by the first respondent
herein in R.C.No.9399/2006 (B3) dated 26.2.2016 and quash the
same and consequently direct the third respondent herein
restore and maintain the patta already issued in tot he
petitioner by the third respondent herein in patta No.1156
dated 28.1.2005.

For Petitioner : Mr.S.Anandan

For Respondents: Mr.N.Srinivasan

Additional Govt. Pleader[R1 to R3]
Mr.ARL.Sundareshan, Senior Counsel
for Mrs.A.L.Ganthimathi [R5]

ORDER

Heard Mr.S.Anandan, learned counsel for petitioner,
Mr.N.Srinivasan, learned Additional Government Pleader for
respondents 1 to 3 and Mr.ARL.Sundareshan, learned Senior

Counsel for Mrs.A.L.Ganthimathi, learned counsel for respondent No.5.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner is a Co-operative Society registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner is aggrieved by the order passed by the first respondent dated 26.02.2016, by which the revision petition filed by the petitioner's society challenging the order of cancellation of patta granted in favour of them was rejected and the petitioner's societies directed to approach the Civil Court.

4. The case of the petitioner society is that the respondents 4 and 5 had filed a Civil Suit in O.S.No.189 of 2011 on the file of the District Munsif Court, Ambattur, wherein a prayer was made to set aside the sale deed executed in favour of the petitioner's society. It is submitted that petitioner society, which was 8th defendant in the Civil Suit filed an application in I.A.No. 320 of 2017 to reject the plaint and the said application was allowed by order dated 15.06.2017 and the plaint has been rejected. Therefore, it is submitted that the impugned proceedings have to be set aside and patta has to be restored in the name of the petitioner society.

5. After elaborately hearing the learned counsel for the parties, this Court is of the view that there is no error in the order passed by the first respondent and directs the petitioner to approach the Civil Court for the following reasons:

(i) The suit in O.S.No189 of 2011 was filed by the respondents 4 and 5. Even assuming it would be dismissed, it will have no impact on the petitioner's claim or the property in question. It is submitted by the learned Senior Counsel for 5th respondent that as against the order in I.A.No.320 of 2017 an appeal has been filed before the Sub Court, Ambattur and the appeal is pending.

7. Be that as it may, the question would be as to whether the legal heirs had valid title to transfer the property in favour of the petitioner's society and the subsidiary question would be whether patta granted in favour of Sundaram and subsequently in the name of the petitioner society could not have been cancelled. These issues have to be adjudicated by the petitioner society independently and petitioner society cannot try to obtain a decree in a suit, which was filed by the respondents 4 and 5. Though the Authorities found that there were documents produced by the Sundaram, by which the patta was granted in his possession, on adjudication and the contentions advanced by the respondents 4 and 5, the second respondent passed a elaborate order on 17.02.2006 pointing out

that no records were available in the Thasildar office, Ambattur to show that proper procedure was followed, when patta was transferred in the name of Sundaram.

8. Furthermore, in paragraphs 18 to 20 in the order dated 17.02.2006, would clearly show that there were no documents produced by Sundaram before the authority to justify that patta should be granted in his favour. If patta granted in favour of Sundaram is illegal then obviously transfer the patta in the name of petitioner society is also illegal. Therefore, unless and until the petitioner society independently adjudicates its right over the property in question by approaching the Civil Court, no relief will inure in favour of the petitioner society and more particularly, in this writ petition, no such relief can be granted.

Thus for the above reasons, the writ petition is dismissed and liberty is granted to petitioner society to approach the Civil Court to establish their right over the property in question. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

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To

1. The Revision Authority/District Revenue officer,
Thiruvallur District,
Thiruvallur.
2. Sub-Division Magistrate Cum Sub-Collector,
Ponneri, Thiruvallur District.
3. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai.

+1cc to Mr.AL.Gandhimathi, Advocate, S.R.No. 729

+1cc to Mr.R.S.Anandan, Advocate, S.R.No. 111

+1cc to the Government Pleader, S.R.No. 460

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KK (CO)

GN (03/03/2020)

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