

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.5839 of 2020 and WMP Nos.6844 & 6847 of 2020

M.Premavathi

... Petitioner

-Vs-

1. The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai 600 005.
2. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.
3. The Tahsildar,
Ponneri Taluk,
Ponneri,
Thiruvallur District.
4. Tmt.Rajini
5. Tmt.Lakshmi

... 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 the 1st respondent dated 23.12.2019 passed in D.Dis.No.K4/9364/2018 and the order passed by the 2nd respondent dated ..01.2019 in Na.Ka.No.24270/2017/A3 and quash the same and consequentially direct the 3rd respondent to implicate the order passed by the 2nd respondent in RC No.24270/2017/B3 dated 31.01.2018.

For Petitioner : Mr.P.Krishnan
For Respondents : Mr.E.Balamurugan
Government Advocate

ORDER

By consent, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the impugned order passed by the 1st respondent by his proceedings dated 23.12.2019, wherein, the 1st respondent has remanded the matter back to the file of the 2nd respondent.

3. The case of the petitioner is that her husband was the owner of the property by virtue of Settlement Deed executed by his brother. The husband of the petitioner died and thereafter, the petitioner and her two sons became the owners of the property and it is further claimed by the petitioner, there was also a partition of the property. The grievance of the petitioner is that respondents 4 and 5 do not have any right or title over the property and their claim over title to the property was much subsequent to the Settlement Deed executed in favour of the husband of the petitioner.

4. Initially, the petitioner filed an application before the 2nd respondent to delete the name of the 5th respondent's father and the 2nd respondent by an order dated 31.01.2018, directed the name of the petitioner to be mutated in the revenue records. The respondents 4 and 5 preferred an Appeal before the 1st respondent and the 1st respondent had set aside the order and remanded the matter back to the file of the 2nd respondent by proceedings dated 12.10.2018.

5. The 2nd respondent had thereafter issued summons to the petitioner and the private respondents and by an order dated 02.01.2019, the claim made by the petitioner was rejected. The petitioner filed an appeal before the 1st respondent. The 1st respondent vide impugned order dated 23.12.2019, had partly accepted the case of the petitioner and remanded the case back to the file of the 2nd respondent only for the purpose of examining the subsequent transfers, which took place after the pre-UDR. Aggrieved by the same, the present writ petition has been filed before this Court.

6. The learned counsel for the petitioner submitted that the 1st respondent ought to have allowed the Appeal and there was no necessity to remand the matter back to the file of the 2nd respondent, since the right and title over the property is vested on the husband of the petitioner and no transaction which took place thereafter can be binding upon the petitioner. The learned counsel submitted that the proceedings are going back and forth from the file of the 1st respondent to the file of the 2nd respondent and it is the 2nd occasion, where the matter has been remanded to the file of the 2nd respondent.

7. The learned Special Government Pleader submitted that the files have already reached the 2nd respondent and that an order will be passed after hearing both the parties, within a time stipulated by this Court.

8. This Court has carefully considered the submissions made on either side and also perused the materials placed on record.

9. A careful reading of the impugned order passed by the 1st respondent shows that the 1st respondent has remanded the matter back to the file of the 2nd respondent only for the limited scope of examining the subsequent transfers that took place after pre-UDR. The 1st respondent has specifically stated in the order that the documents that have been registered after the UDR must be verified with reference to the boundaries by deputing the concerned officer for determination of the correct title and ownership, after the UDR. The 1st respondent has also gone to the extent of saying that appropriate orders will be passed within 30 days on receipt of the order.

10. In the considered view of this Court, such a determination will be required before any mutation happens in the revenue records. The rights of both the petitioner and the respondents 4 and 5 is sufficiently safeguarded by the order passed by the 1st respondent and this Court does not find any illegality or infirmity in the order passed by the 1st respondent. In view of the above, this Court is not inclined to interfere with the impugned order passed by the 1st respondent and the 2nd is directed to complete the enquiry, after verifying all the documents and after hearing the parties and shall pass appropriate orders, within a period of four weeks from the date of receipt of copy of this order.

11. This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

2. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.

3. The Tahsildar,
Ponneri Taluk,
Ponneri,
Thiruvallur District.

+1cc to Mr.P.Krishnan, Advocate, S.R.No. 20736

+1cc to the Government Pleader, S.R.No. 21670

W.P.NO.5839 of 2020

BP(CO)
GN(25/06/2020)



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