

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	20.08.2020
Pronounced on	:	24.08.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9595 OF 2020
and W.M.P.Nos.11720 & 11721 of 2020

M/s.The Chrome Leather company Ltd
Rep. by its Vice President Mr.Vairakumar
No.7 works Road Chrompet ,
Chennai 600 044. Petitioner

-Vs-

- 1.The Revenue Divisional officer
Tambaram Chennai.
2. Quenti Dawson
3. Dhamodharan
- 4.David Chamber Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for the issuance of a Writ of Certiorari Calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.705/2018/A dated 12/07/2019 and quash the same as illegal without Jurisdiction and arbitrary.

For Petitioner : Mr.M.S.Krishnan, Senior Counsel
for Mr.N.Senthil Kumar

For Respondents: Mr.E.Balamurugan - for R1
Special Government Pleader-for R1
Mr.E.J.Ayyappan - for R2

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent proceeding dated 12.07.2019.

2. The case of the petitioner is that they are the absolute owners of the property situated in SF.No.520/1, 520/2 and 521 at Zamin Pallavaram. The petitioner is tracing the

title to the property through the sale deed executed in the year 1944. It is the further case of the petitioner that the revenue records stands in the name of the petitioner company and the same is clear from a copy of the Town Survey Field Register issued by the Pallavaram Municipality dated 23.08.2014.

3. The further case of the petitioner is that the second respondent had been trying to make a claim over the property and all the earlier attempts made by him before this Court was rejected. Similarly, the attempt made by him before the Revenue Authorities was also rejected. The second respondent seems to have approached the first respondent and sought for the cancellation of the patta, which according to him stood in the name of one Damodharan who is the third respondent in this writ petition. The petitioner had informed the first respondent that Damodharan had nothing to do with the subject property and therefore the petition submitted by the second respondent should not be entertained. The first respondent by the impugned proceedings dated 12.07.2019, had directed the Patta to be transferred in the name of Chambers. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Mr.M.S.Krishnan, learned Senior Counsel appearing on behalf of the petitioner submitted that the impugned order passed by the first respondent is illegal and it has been passed even without putting the petitioner on notice. Learned Senior Counsel further submitted that the father of the fourth respondent had been making repeated attempts to establish himself as the legatee under a Will. The said claim made by the father of the fourth respondent was rejected by this Court in Application No.3899 of 2007 by order dated 08.07.2008. The fourth respondent made an attempt through the second respondent as if the Will was executed in his favour by his father and the second respondent filed an application for probate which was subsequently converted into TOS No. 7 of 2012. This suit was dismissed by rejecting the plaint by an order dated 17.07.2018. The learned senior counsel specifically relied upon Paragraph 22 of the order and the same is extracted hereunder.

" 22. In fact, in its order dated 29.06.2012, this Court had held that a fraud had been committed by the plaintiff by furnishing wrong addresses, which would amount to exercising of fraud upon the Court. The said order was never assailed by the plaintiff therein and the said finding has become final. The Court would exercise its discretion to a person, who has come to Court only with clean hands. In the present case, the conduct of the plaintiff smacks of mala fide from the date of

initiation of proceedings which is also found to be true and was condemned by the Court."

5. The learned Senior Counsel further submitted that the father of the fourth respondent attempted to get the Patta in his favour for the subject property and it was rejected by the Tahsildar, Tambaram by a proceedings dated 05.12.2007 and he was asked to approach the civil court. Learned Senior Counsel further submitted that the second respondent also approached the Tahsildar, Alandur seeking for Patta for the subject property and same was also rejected by proceedings dated 05.04.2011 and he was asked to establish his right before a Civil Court.

6. Learned Senior Counsel submitted that the second respondent has been attempting to somehow interfere with the possession and enjoyment of the property and he has been adopting illegal methods. The petitioner company had in fact filed a suit against him and the same is pending in C.S.No.422 of 2015. The learned Senior Counsel submitted that the second respondent has now adopted a genius method by filing an appeal directly before the first respondent as if the Patta is standing in the name of one Damodaran who is the third respondent herein and the first respondent, even without noticing the earlier proceedings had proceeded to pass the impugned order by directing the Patta to be transferred in the name of Chambers. The learned senior counsel submitted that this order passed by the first respondent is beyond his jurisdiction and it was passed behind the back of the petitioner in whose name the Patta stands and the same is clear from the Town Survey Field Register found at Page No.654 of the typed set of papers. Therefore, the learned Senior Counsel submitted that the order of the first respondent requires interference.

7. The learned counsel appearing on behalf of the second respondent submitted that the petitioner is not the aggrieved party in this case and it is only the third respondent, who is aggrieved since the Patta standing in the name of the third respondent is directed to be cancelled and it is transferred to the name of Chambers. Therefore, the learned counsel submitted that the petitioner has no locus standi to challenge the order passed by the first respondent. The learned counsel also relied upon the affidavit filed by the second respondent.

8. Learned Special Government Pleader appearing on behalf of the first respondent submitted that the first respondent has applied his mind and has placed reliance upon the documents and also the Revenue Records and has rightly come to the conclusion that the Patta must be restored in the name of Chambers.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. A careful perusal of the entire documents filed by the petitioner shows that the petitioner became the owner of the property in the year 1944 by virtue of a registered Sale Deed dated 14.03.1944. Right through, the Patta stood in the name of the petitioner with respect to the subject property. Even the earliest Patta that was issued in Patta No.563 stands in the name of the petitioner Company. The position continues and the same is seen from a copy of the Town Survey Field Register issued by the Pallavaram Municipality in the name of the petitioner for SF.No.520/1, 520/2 and 521.

11. The father of the fourth respondent was earlier making an attempt to claim right over the property and the same was rejected by this Court by an order dated 08.07.2008 made in Application No.3899 of 2007. Similarly, he also made an attempt to get a Patta before the Tahsildar, Tambaram and that was also rejected by Proceedings dated 05.12.2007.

12. Thereafter, the second respondent started claiming right over the property by virtue of a Will said to have been executed by the father of the fourth respondent. This attempt made by the second respondent was also shot down by this Court by passing orders in TOS No. 7 of 2012 dated 17.07.2018. This Court went to the extent of saying that the conduct of the second respondent smacks of mala fide right from the initiation of the proceedings. The second respondent also made an attempt before the Tahsildar, Alandur to get the Patta cancelled and issue the Patta in his favour. The Tahsildar, Alandur rejected the claim made by the second respondent by a proceedings dated 05.04.2011.

13. The second respondent seems to have submitted that a representation before the first respondent on the ground that the property belongs to the legal heirs of Chambers and therefore the Patta that is standing in the name of the petitioner company has to be cancelled. Surprisingly, the first respondent proceeded to deal with the issue as if the Patta stands in the name of one Damodharan who is the third respondent in this Writ Petition. The first respondent seems to have completely disregarded the earlier proceedings and also the conduct of the second respondent recorded by this Court and has proceeded to deal with the application submitted by the second respondent as if he is dealing with the title to the property and surprisingly had come to the conclusion that the Patta was wrongly recorded in the name of Damodharan and the same should be cancelled and it must be restored in the name of Chambers.

14. The order passed by the first respondent suffers from patent illegality. The first respondent has proceeded to decide the issue as if he is a Civil Court and even without giving an opportunity to the petitioner, has passed the impugned order. It is not known as to why the first respondent did not even take note of the earlier proceedings of the Tahsildar, where the second respondent was directed to go before the Civil Court. Surprisingly, that was not even referred by the first respondent.

15. In the considered view of this Court, the first respondent has virtually dislodged all the earlier proceedings and has proceeded to pass the impugned order on a tangent. The order of the first respondent is totally unsustainable since the first respondent has decided the issue as if it is a dispute between the second respondent and the third respondent. Surprisingly, the third respondent has not even challenged the proceedings and that speaks volumes about the collusion between the second respondent and the third respondent. This Court does not want to use any strong words against the first respondent, who is a statutory authority, who has acted in a very questionable manner for extraneous consideration.

15. This Court has absolutely no hesitation to interfere with the impugned order passed by the first respondent and accordingly the same is hereby quashed.

16. In the result, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

KST/LPP

To

The Revenue Divisional officer,
Tambaram Chennai.

+2cc to Mr.N.Senthil Kumar, Advocate SR.27465

+1cc to Mr.E.J.Ayyappan, Advocate SR.27542

W.P.No.9595 OF 2020 and
W.M.P.Nos.11720 & 11721 of 2020

CB(03/09/2020)