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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 06.11.2020

Delivered on: 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP.No.35902 of 2019

and

WMP Nos.36815 & 36818 of 2019

1. P. Balakrishnan
2. C. Sasikala

..Petitioners

.Vs.

1. The District Revenue Officer,
Office of the District Revenue Officer,
Tiruppur.

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur.

3. R. Vengidupathy

..Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari and Mandamus, calling for the records pertaining to the proceedings in Roc.No.5545/2019/J1, dated 2.12.2019, on the file of the 1st Respondent and quash the same and consequently direct the revenue authorities to restore the 'Joint Patta' in Patta No.1290 as it stands before the order dated 18.2.2019, made by the 2nd Respondent /RDO till the termination of Civil Suits instituted by these Petitioners in O.S.No.135/2018 on the file of the District Munsif Court, Palladam, Tiruppur District.

For Petitioners : Mr.M.Aravind Subramaniam

For RR 1 & 2 : Mr. K.Parameswaran
Government Advocate

For R 3 : Mr.R.Bharath Kumar



ORDER

The present Writ Petition has been filed challenging the Impugned Order passed by the 1st respondent dated 02.12.2019, confirming the order passed by the 2nd respondent dated 18.02.2019 and for a consequential direction to the Revenue Authorities to restore the Joint Patta in Patta No.1290, till the disposal of the Civil Suits.

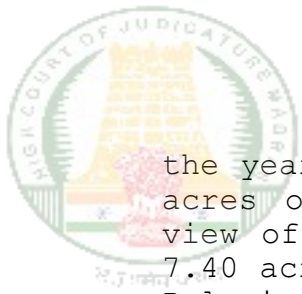
2.The case of the petitioners is that they purchased the subject property situated at Survey No.273, Karaipudur Village, Tiruppur District, measuring an extent of 3.70 acres through a registered Sale Deed dt. 24.10.2018. The petitioners made an application seeking for Patta and their name was added as a joint Pattadar in Patta No.1290. The 3rd respondent made an application before the 2nd respondent on 27.07.2016, to remove all the names found in Patta No.1290 and to add the name of the 3rd respondent and one Manjula as Pattadars.

3.The petitioners in fact had purchased the property on 24.10.2018, much after the application filed by the 3rd respondent before the 2nd respondent. The 2nd respondent by an order dated 18.02.2019, directed the removal of the names of pattadars in Patta No.1290 and to further issue Patta in the name of the 3rd respondent and Manjula in Patta No.1290, for the subject property.

4.The petitioners aggrieved by the Order passed by the 2nd respondent, filed a Revision Petition before the 1st respondent. The 1st respondent by Impugned Order dated 02.12.2019, dismissed the Revision Petition filed by the petitioners and confirmed the Order passed by the 2nd respondent. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.Heard Mr.M.Aravind Subramanyam, learned counsel for petitioners and Mr.K.Parameswaran, learned Government Advocate for respondents 1 and 2 and Mr.R.Bharath Kumar, learned counsel appearing on behalf of the 3rd respondent.

6.The petitioners are deriving their title to the subject property in the following manner; According to the petitioners, the property originally belonged to one Palanimuthu Gounder, S/o.Kuppanna Gounder, According to the petitioners, the total extent of property is 11.10 acres. In



the year 1915, the legal heirs of Palanimuthu Gounder sold 3.70 acres of land to their paternal uncle Arunachala Gounder. In view of this sale, the rest of the lands measuring an extent of 7.40 acres was in possession and enjoyment of the legal heirs of Palanimuthu Gounder. Thereafter, the great grand children of Palanimuthu Gounder viz; Ramasamy and Vijayalakshmi filed a suit for partition in O.S.No.280 of 2014, seeking for half share out of 7.40 acres of land against the descendants of Muthusamy Gounder. An ex parte Preliminary Decree was passed on 13.07.2015. According to the petitioners, the above said Ramasamy and Vijayalakshmi got 3.40 acres after the Preliminary Decree was passed in their favour. Thereafter, the Sale Deed was executed in favour of the petitioners on 24.10.2018, for an extent of 3.70 acres.

7.The 3rd respondent is deriving the title to the property in the following manner:

Survey No.273 measuring an extent of 11.10 acres was the ancestral property of Palanisamy Gounder, Chinnathambi Gounder and Arunachala Gounder, who are the sons of Kuppanna Gounder and each of them were entitled to 1/3rd share. After the death of Palanisamy Gounder, his legal heirs sold the 1/3rd share to their paternal uncle Arunachala Gounder through a Sale Deed dt. 21.07.1915. The further case of the 3rd respondent is that Arunachala Gounder became entitled to 2/3rd share [1/3rd + 1/3rd] and his brother Chinnathambi Gounder continued to be the owner of the rest of the 1/3rd share in Survey No.273. Originally, the Patta for the said property in Patta No.178 stood in the joint names of Palanisamy Gounder, Arunachala Gounder and Chinnathambi Gounder. After the death of Palanisamy Gounder, the name of his eldest son Nachimuthu Gounder was replaced in the Patta. The Patta number was changed as Patta No.1290 in the updating of land records scheme (UDLR). According to the 3rd respondent, the legal heirs of Palanisamy Gounder managed to include their names in a clandestine manner in Patta No.1290, as if, they are also the joint owners of the property.

8.The further case of the 3rd respondent is that his father and himself through three Sale Deeds purchased the 2/3rd share of Arunachala Gounder, which is an extent of 7.40 acres in Survey No.273. Similarly, the 3rd respondent also purchased an extent of 3.57 - 2/3 acres from the heirs of Chinnathambi Gounder under two Sale Deeds. The balance of 0.12 -1/3 acres was purchased by one Manjula from the heirs of Chinnathambi Gounder. Thus, the entire extent of 3.70 acres which reflects the 1/3rd share of Chinnathambi Gounder, was purchased by the 3rd respondent and a small portion by Manjula and according to the



3rd respondent, this small portion purchased by Manjula is used as common cart track. The 3rd respondent ultimately is seeking title over the entire extent of 11.10 acres, except the small portion purchased in the name of Manjula.

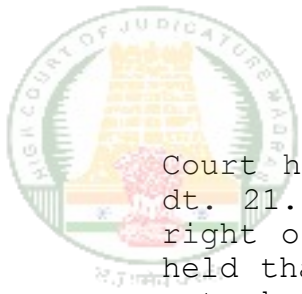
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9.The 3rd respondent therefore wanted the names of all the Pattadars removed from Patta No.1290 and was seeking for the Patta for the entire property in his name and in the name of Manjula. The father of the 3rd respondent had by then expired and his share also vested with the 3rd respondent.

10.It can be seen from records that the heirs of Arunachala Gounder and Chinnathambi Gounder had earlier filed a suit in O.S.No.8134 of 1985, before the Munsif Court, Tiruppur against the heirs of Palanisamy Gounder [the names - Palanisamy Gounder and Palanimuthu Gounder are interchanged and used right through] and the Revenue Officials, to remove the names of the heirs of Palanisamy Gounder from the Patta. During the pendency of this Suit, by proceedings dt. 11.09.1987, the names of the heirs of Palanisamy Gounder were removed from Patta No.1290. Therefore, the suit was not pressed.

11.It is also seen from records that the heirs of Palanisamy Gounder filed a suit in O.S.No.760 of 1994, before the Sub Court, Tiruppur against the 3rd respondent, his father and the heirs of Chinnathambi Gounder for the relief of Permanent Injunction with respect to 7.40 acres in Survey No.273. During the pendency of this Suit, they executed a Power of Attorney on 20.12.1994 and as a result of the same, three Sale Deeds came to be executed by the Power of Attorney Agent on 03.01.1995, in favour of seven persons. Strangely, the Sale Deed was registered in the Office of the Sub Registrar at Kerala State. This transaction took place during the pendency of the Suit and the Suit later got transferred to the file of the District Munsif Court, Palladam and it was renumbered as O.S.No.254 of 1956. The Suit came to be dismissed for default on 05.10.2001.

12.It is also seen from records that the seven persons in whose favour the Sale Deeds were executed on 03.01.1995, again filed a Suit in O.S.No.36 of 1995, on the file of the Sub Court, Tiruppur for the relief of Permanent Injunction against the 3rd respondent, his father and the heirs of Chinnathambi Gounder. In this Suit, the application filed for interim injunction came to be dismissed on merits by an order dt.10.04.1995. While dismissing the application, the Civil



Court held that after selling the 1/3rd share through Sale Deed dt. 21.07.1915, the heirs of Palanisamy Gounder do not have any right or title in Survey No.273. Consequently, the Civil Court held that the seven persons, who purchased the property also did not derive any title to the property. An appeal was filed against this order in CMA No.154 of 1995, before the District Court, Coimbatore and this appeal was also dismissed by an order dt. 22.10.1998. The Suit itself got transferred to the District Munsif Court, Palladam and it was renumbered as O.S.No.139 of 1997 and it was ultimately dismissed for default on 09.01.2003.

13.It is further seen from records that the seven persons who purchased the 7.40 acres from the heirs of Palanisamy Gounder, filed an appeal before the RDO, Tiruppur, challenging the proceedings of the Tahsildar dt.11.09.1987, wherein the names of the heirs of Palanisamy Gounder were removed from Patta No.1290. The RDO by an order dt. 17.02.1995, confirmed the order passed by the Tahsildar and directed the parties to work out their remedy before the Civil Court. A Revision was filed before the DRO, Coimbatore and the Revision was also dismissed by an order dt. 27.05.2000 and thereby the original order of the Tahsildar was confirmed and the parties were directed to establish their rights before the Competent Civil Court.

14.It is also seen from records that five out of the seven purchasers also filed a criminal case against the 3rd respondent on the ground of land grabbing and an FIR came to be registered in Crime No.32 of 2013. Simultaneously, they also moved an application before the Tahsildar, Palladam, to include their names in Patta No.1290. It seems that the Tahsildar passed an order including their names in the Patta. It is quite unfortunate that after these persons lost in the earlier round throughout before the Revenue Authorities had subsequently managed to get their names added in Patta No.1290. This patent mistake committed by the Tahsildar was set right by the 2nd and 1st respondents through their orders dt. 18.02.2019 and 02.12.2019 and these are the orders that have been put to challenge in the present Writ Petition.

15.The FIR that was registered by the Police in Crime No.32 of 2013, was quashed by this Court in Crl.OP.No.4550 of 2014, by order dt. 17.10.2014. This order was further confirmed in appeal by the Hon'ble Supreme Court by order dt. 01.12.2017.



16.It is during this interregnum period, the petitioners came into the picture by purchasing 3.70 acres in Survey No.273 from Ramasamy and Vijayalakshmi through Sale Deed dt. 24.10.2018. Immediately, after the petitioners came into the scene, they filed one more Suit in O.S.No.135 of 2018, before the District Munsif Court, Palladam against the 3rd respondent and others claiming for the relief of Permanent Injunction. During the pendency of this Suit, the 3rd respondent claims that the petitioners resorted to violence through henchmen and took forcible possession of the property. Therefore, a Suit came to be filed by the 3rd respondent in O.S.No.565 of 2019, before the First Additional District Judge, Tiruppur under Section 6 of the Specific Relief Act, seeking for the relief of Possession and Permanent Injunction and this Suit is also pending as on date. Thus as on today, both these Suits are pending adjudication.

17.Both the 2nd respondent as well as the 1st respondent have taken into consideration the entire facts and circumstances of the case and passed the Impugned Order. The 1st and 2nd respondents did not decide the title over the property as contended by the learned counsel for the petitioners. On the face of the records, it is seen that the heirs of Palanisamy Gounder and the subsequent purchasers were involved in various proceedings before Civil Courts, Revenue Authorities and also a criminal case and they never succeeded before any authority. The petitioners who are deriving their title through them, can never have a better claim or title to the property. The 1st and 2nd respondents were perfectly right in removing the names of all the Pattadars in Patta No.1290 and directing the names of the 3rd respondent and Manjula to be added in the Patta. They have prima facie proved their title for the entire extent of 11.10 acres in Survey No.273. This Court does not find any grounds to interfere with the orders passed by the 1st and 2nd respondents and the 1st and 2nd respondents have given cogent reasons supported by records to justify their finding in favour of the 3rd respondent.

18.If the petitioners are aggrieved with the entry made in the Patta Pass Book pursuant to the orders passed by the 1st and 2nd respondents, it is always left open to them to go before the Civil Court and seek for declaration of title over the subject property. In fact, they can even seek for an amendment in the pending Suit in O.S.No.135 of 2018, by adding the necessary reliefs, if the law so permits.



19. In the light of the above discussion, this Court does not find any ground to interfere with the Impugned Order passed by the 1st respondent dt. 02.12.2019, confirming the order passed by the 2nd respondent dated 18.02.2019 and accordingly, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KP

cc

To

1. The District Revenue Officer,
Office of the District Revenue Officer,
Tiruppur.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur.
3. The District Munsif Court, Palladam,
Tiruppur District.

+1cc to Mr.M.Aravind Subamaniam, Advocate SR.36601

+1cc to Mr.R.Bharath Kumar, Advocate Sr.36794

W.P.No.35902 of 2019

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srg 03/12/2020