

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.02.2021
CORAM
THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P.No.13004 of 2011
and
M.P.No.1 of 2011

Jaheer Hussain

... Petitioner

vs

1.The District Collector,
Ariyalur District,
Ariyalur.

2.The District Revenue Officer,
Ariyalur,
Ariyalur Taluk & District.

3.The Revenue Divisional Officer,
Ariyalur,
Ariyalur Taluk & District.

4.The Tahsildar,
Ariyalur,
Ariyalur Taluk & District.

5.Prakasam

.... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order issued by the 2nd Respondent in Na.Ka.A2/13455/10 dated 30.04.2011 and quash the same.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mrs.A.Madhumathi (For R1 to R4)
Special Government Pleader

T.Vijayan (For R5)

O R D E R

The present writ petition is filed to call for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.A2/13455/10 dated 30.04.2011 and to quash the same. The impugned order is the order passed in a revision petition filed by the 5th respondent reversing the order of the 3rd respondent confirming the order of the 4th respondent transferring patta in favour of the petitioner pursuant to the registered sale deed executed by the 5th respondent in favour of the petitioner.

The brief facts necessary for disposal of the writ petition are as follows:-

2. The petitioner states that he purchased the property measuring to an extent of 0.07.0 Ares in S.F.No.219/7-B and 2.22 cents in S.F.No.219/7-D in Periya Chennivanam Village, Ariyalur Taluk and District, from the fifth respondent. It is seen that the fifth respondent executed a sale deed in favour of the petitioner on 05.01.2010 and the said sale deed was registered before the Sub Registrar Office, Sendurai vide Document No.2012/10. It is stated by the petitioner that he was put in possession pursuant to the sale deed that was executed by the previous owner in his favour. The petitioner applied for patta based on the document of title before the Tahsildar/Fourth Respondent herein. It is admitted that patta was transferred in favour of the petitioner and the petitioner was shown as the land owner as per the revenue records.

3. It is noticed that the fifth respondent thereafter filed a suit in O.S.No.28 of 2010 on the file of the District Munsif Court, Ariyalur for declaration of title and injunction. The suit is still pending. It is to be seen that the fifth respondent did not deny the execution of sale deed in favour of the petitioner. The sale deed conveying the title from the petitioner's vendor to the petitioner is not sought to be set aside in the said suit. It is alleged that the sale deed was obtained by force and registered fraudulently.

4. In the said circumstances, this Court is inclined to hold that the petitioner's possession and enjoyment of property as a lawful owner of the property based on the sale deed executed by the fifth respondent has to be accepted. When the conveyance had taken place by a registered instrument, this Court cannot consider the fifth respondent as a person having title or right unless he deny the execution or question the sale by disputing identity or succeed the suit with a prayer to set aside the document by any fraud and mis-representation.

5. Under the Tamil Nadu Patta Passbook Act, 1983, mutation or modification in the revenue records in terms of conveyance is a statutory, obligation of the official respondents.

6. That being a case, mere pendency of the suit does not alter the position. In other words, when the revenue officials are under legal and statutory obligations to modify the revenue records in tune with the registered instrument, conveying right or title in respect of the immovable property, in favour of purchaser, mere pendency of suit can not be cited to restrain the Revenue Officials to act upon the registered deed of conveyance.

7. The suit in O.S.No.28 of 2010 is an independent suit. Hence, this Court is of the view that the impugned order passed by the second respondent for mutation of names in the revenue records as it was prior to the sale deed, is not proper. The petitioner is the owner of the property as per the revenue records and subsequent sale deed. The impugned order of the second is unacceptable and contrary to the settled position of law as being reiterated by this Court for a long time.

8. Accordingly, the impugned order passed by the second respondent is set aside and the writ petition is allowed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)
/true copy/
Sub Asst. Registrar

dm

To

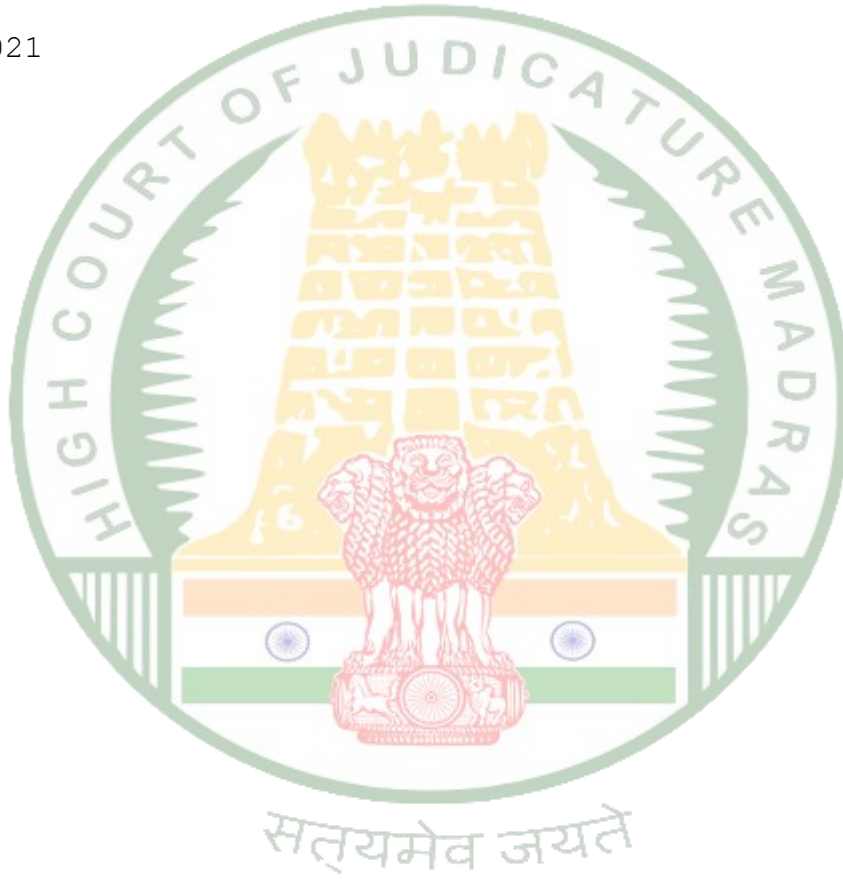
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+1 cc to M/s.R.Marudhachalamurthy Advocate sr11960

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