



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.34293 of 2007

Selva Dhanasekaran

... Petitioner

Vs

1. Commissioner of Land Administration,
Chepauk, Chennai-5

2. The District Revenue Officer,
Ramanathapuram

3. Arumugam

4. Thadiyarasu

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records made in the impugned order dated 31.05.2006 in P5/75375/98 CR 82/98 passed by the second respondent herein, quash the same.

(prayer amended as per order dated 05.10.2021 in WMP.No.23307 of 2019 in WP.No.34293 of 2007)

For Petitioner : Mr.M.V.Venkataseshan

For Respondents

For R1 & 2 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R3 : Mr.Mohamed Ansar

For R4 : No appearance

ORDER

This Writ Petition is filed to issue a writ of certiorari calling for the records made in the impugned order dated 31.05.2006 in P5/75375/98 CR 82/98 passed by the second respondent herein, quash the same.



2. The case of the petitioner is that the petitioner's fore-fathers are performing Thavasiyar service in the Arulmigu Naganathar Temple at Nainarkoil, Paramakudi Taluk, Ramanathapuram District. The property comprised in survey No.329/1 to an extent of 2.85 acres were assigned to his family members as Inam. 80 cents out of total extent was mortgaged to one, Kannuswami Thevar. The third respondent was in occupation of the land and as such the petitioner's father filed suit in OS.No.528 of 1985 on the file of the District Munsif Court, Paramakudi for redemption of the said mortgage, which was dismissed and the appeal suit in AS.No.84 of 1990 and the second appeal were also dismissed. Therefore, to an extent of 80 cents of the land comprised in survey No.329/1 occupied by the third respondent herein. At the same time, the petitioner's elder brother filed suit in OS.No.31 of 1989 on the file of the District Munsif Court, Paramakudi for declaration and injunction in respect of the property admeasuring 2.85 acres comprised in survey No.326/2 as against one, Avadi and others and the same was decreed and confirmed in AS.No.51 of 1996 on the file of the Sub Court, Ramanathapuram. While being so, the third respondent attempted to claim patta for the survey No.326/2 also along with survey No.329/1. The third and fourth respondents have no right or title over the property comprised in survey No.326/2. However, the Revenue Divisional Officer, Paramakudi by order dated 23.02.1996 granted patta for the entire property in favour of third and fourth respondents herein. Therefore, the petitioner filed appeal before the second respondent and the same was also dismissed by order dated 31.05.2006. Aggrieved by the same, the petitioner preferred revision before the first respondent and rejected on the ground of laches. Later, the revisional power has been taken from the jurisdiction of the first respondent and as such the petitioner filed petition for seeking amendment to challenge the order passed by the second respondent herein.

3. On perusal of the counter, revealed that the suits mentioned in OS.No.31 of 1989 and the appeal suit in AS.No.51 of 1996 on the file of the Sub Court, Ramanathapuram are not related to the disputed property comprised in survey No.326/2, Vaniyavallam of Paramakudi Taluk, Ramanathapuram District. The petitioner did not produce any copies of the judgment before the second respondent during the enquiry. The second respondent confirmed the order passed by the Revenue Divisional Officer on the strength of the decree passed in OS.No.528 of 1985 on the file of the District Munsif Court, Paramakudi. Therefore, the third respondent filed counter and revealed that the father of the petitioner filed suit in OS.No.528 of 1985 claiming service tenure character of the land, which was not accepted. Aggrieved by the same, he also preferred appeal suit in AS.No.84 of 1990 and the same was also dismissed and confirmed by this Court in



SA.No.1530 of 1994. Therefore, the petitioner is not entitled for any patta and the second respondent rightly passed the order.

4. As stated supra, in respect of the land comprised in survey No.329/1 was mortgaged, in which one, Kannuswami Thevar is in possession and enjoyment of the said land. Therefore, the petitioner's father, insofar as the land admeasuring 80 cents comprised in survey No.329/1, filed suit in OS.No.528 of 1985 and failed upto this court in SA.No.1530 of 1994. Insofar as the land comprised in survey No.326/2 is concerned, the petitioner's brother one, Ponamirdham filed suit in OS.No.31 of 1989 and the same was decreed in respect of the property comprised in survey No.326/2 to an extent of 2.85 acres and the same was confirmed in the appeal suit in AS.No.51 of 1996 on the file of the Sub Court, Ramanathapuram. After demise of his brother, by the proceedings dated 21.11.1997, the petitioner was appointed as 'Thavasiyar Mirasu'. Therefore, without considering those aspects, the second respondent passed the impugned order as if the petitioner claimed patta for the property comprised in survey No.329/1. On the other hand, the third and fourth respondents claimed patta in respect of property comprised in survey No.326/2 including the land comprised in survey No.329/1. Therefore, the impugned order cannot be sustained as against the petitioner and it is liable to be set aside.

5. Accordingly, the impugned order dated 31.05.2006 is set aside and the writ petition is allowed. The matter is remanded back to the second respondent for passing fresh orders. The second respondent is directed to issue notice to the petitioner and the respondents 3 and 4 herein within a period of two weeks from the date of receipt of copy of this order and after giving them opportunity of hearing and pass orders on merits and in accordance with law in view of the judgment and decree passed in OS.No.31 of 1989 and appeal suit in AS.No.51 of 1996 within a period of six weeks thereafter. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Land Administration,
Chepauk, Chennai-5

2. The District Revenue Officer,
Ramanathapuram.

+1cc to M/s.S.Mohamed Ansar, Advocate, S.R.No.52258

+1cc to M/s.M.V.Venkataseshan, Advocate, S.R.No.52279

+1cc to the Special Government Pleader, S.R.No.52798

WP.No.34293 of 2007

RP (CO)
SU (24/11/2021)