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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.16702 OF 2012

AND

M.P.NOS. 1 TO 3 OF 2012

Imran Khan

... Petitioner

Vs

1. The Commissioner of Survey and Settlement,
Directorate of Survey and Settlement,
Chepauk, Chennai - 600 005.

2. The Tahsildar,
Mambalam - Guindy Taluk,
Ashok Nagar, Chennai - 600 078.

3. Ahmed Sheriff

4. S. Dhandapani

5. S. Gnanamurugan

6. The Sub-Registrar Adyar,
Kamarajar Nagar,
Adyar, Chennai - 600 020.

... Respondents

Prayer :

Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARFIED MANDAMUS to call for the records related to the Impugned Proceedings dated 28.09.2011 of the First respondent in Rc.D1/5054/11 and quash the same and directing the 2nd respondent to restore the Patta dated 04.11.1999 in C.A.No.544/99-2000, issued by the 2nd respondent in the name of the petitioner herein.

For Petitioner : Mr. Rathina Asohan

For Respondents : Mr.M.R.Gokul Krishnan,
1, 2, 6 Government Advocate

For Respondents : No Appearance



3 and 5

O R D E R

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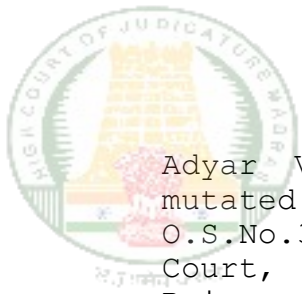
This writ petition has been filed to to issue a Writ of Certiorarified Mandamus to call for the records related to the Impugned Proceedings dated 28.09.2011 of the First respondent in Rc.D1/5054/11 and quash the same and directing the 2nd respondent to restore the Patta dated 04.11.1999 in C.A.No.544/99-2000, issued by the 2nd respondent in the name of the petitioner herein.

2. The case of the petitioner is that he owned property bearing Plot No.7 comprised in T.S.No.7/6, admeasuring a total extent of 1 Ground 532 Sq.ft, Block No.14, Adyar Division, Mambalam-Guindy Taluk, Chennai District and now bearing Door No. 1/24-C, Ranjit Road, Kotturpuram, Chennai - 600 085. The said property was purchased by the registered sale deeds dated 18.01.1996 and 22.01.1996 registered vide the Document Nos.191, 245 of 1996 respectively on the file of the Sub-Registrar, Adyar from the previous owner and pattadar namely D.Hemanthakumar Reddy.

3. The said property was part of the larger extent of 3 acre and 58 cents, then comprised in T.S.No.7, Block No.14, Adyar Zamin Village. The said property was originally jointly owned by two sisters namely (1) Sakku Bai and (2) Baby Ammal @ Padmavathy Ammal, having been inherited the same from their father A.S.Krishnaswamy Naidu.

4. The Adyar village was a Zamin Village, which was taken over by the Government, on the enactment of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari), Act 1948 and enactment Zamindari System was abolished and the lands held by Zamin was taken over by the Government. In view of the above Act, a Settlement Officer was appointed to determine the actual extent of the land holders during the transition between Zamin to the Government for issuance of Ryotwari Patta. During the Settlement, the entire Adyar Zamin Village was divided into 18 Blocks. Consequently the entire extent of 3.58 Acres, jointly owned by the said Sakku Bai and Baby Ammal @ Padmavathy Ammal was subjected to a statutory enquiry, held under Section 11(a) of the said Act, for determination of land holdings by them.

5. After adjudication, an extent of 1.94 Acres was determined by the Final Settlement Tahsildar No.II, Madras, in favour of the said two sisters by an order dated 15.01.1959 in S.R.No.6/B1 14/AD/58 and the said extent of lands were assigned Ryotwari Patta in favour of them under Block No.14, T.S.No.7,



Adyar Village and their names on the Revenue Records were mutated in favour of them. Between them, there was a suit in O.S.No.3257 of 1961 on the file of the IV Assistant City Civil Court, Chennai and in the said suit, one of the sisters Sakku Bai was allotted an extent of 11 grounds and 913 Sq.ft., in T.S.No.7 part.

6. In the year 1966, the said Sakku Bai sold the entire extent of the property in favour of the one C.R.Niranjana, who in turn, he executed a Sale Deed in favour of one C.Nataraj by the registered Sale Deed dated 10.10.1973 registered as Document No.2937 of 1973. Thereafter, the said C.Nataraj plotted out the same into eight house plots after obtaining necessary sanction and approval from the Director of Town Planning. He sold out one such plot admeasuring one Ground and 525 Sq.ft., bearing Plot No.7, comprised in T.S.No.7 part, Block No.14, Adyar to one D.P.Sakuntala Devi, by a registered Sale Deed dated 24.12.1973, vide Document No.3773 of 1973.

7. Thereafter, the said property was sold out to one Kamalanathan by a Sale Deed dated 18.02.1982 and in turn, he sold the property to one Mythili by a Sale Deed dated 23.12.1987, in turn, she sold out the property to one Hemanthakumar Reddy namely vendor of the petitioner herein by the two registered Sale Deeds, thereby dividing the plots into 7A and 7B - Doc.Nos.1631 of 1992 and 1644 of 1992 on the file of the Sub-Registrar, Adyar. The said Hemanthakumar Reddy applied for sub-division and he was issued patta in respect of the said property. The petitioner purchased the said property by the two registered Sale Deeds dated 18.01.1996 vide Document Nos.191 of 1996 and 245 of 1996.

8. Thereafter, the petitioner applied for patta and he was issued patta. While being so, during the year 2008, the respondents 4 and 5 tried to trespass into the said property and as such, the petitioner was constrained to file a Suit in O.S.No.8602 of 2008, on the file of the V Assistant City Civil Court, Chennai for a Permanent Injunction.

9. In the meanwhile, the respondents 4 and 5 also filed a petition before the District Revenue Officer (DRO), to cancel the patta issued in favour of the petitioner. However, the District Revenue Officer (DRO), directed them to approach the Civil Court as the question of title cannot be decided. Therefore the petitioner filed a suit for declaration in O.S.No.4007 of 2012 on the file of the VII Assistant City Civil Court and it is pending for trial. The case of the respondents 4 and 5 is that they purchased the said property from the third respondent by a registered Sale Deed dated 24.09.2007.



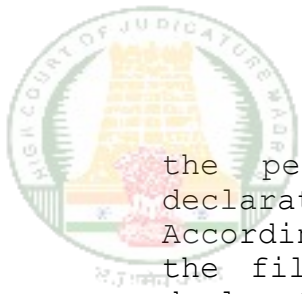
10. In the meanwhile, the mother of the third respondent after coming to know the fact that the Ryotwari patta was issued in favour of the said Baby Ammal and Sakku Bai, pursuant to the order dated 15.01.1959 passed by the Settlement Officer, she gave a representation dated 11.04.1994 before the Director of Survey and Settlement and termed as Revision Petition.

11. After the demise of his mother, the third respondent filed a writ petition before this Court in W.P.No.8109 of 2011 and this Court by an order dated 29.03.2011 directed the first respondent to consider the representation of the mother of the third respondent and pass orders within a period of twelve weeks. As directed by this Court, the first respondent considered the said representation and passed the order impugned in this writ petition, after issuing notice to the deceased Sakku Bai and Baby Ammal. It is seen from the records that the said Sakku Bai Ammal appeared and raised objections.

12. As stated supra, after issuance of patta dated 15.01.1959 by the Settlement Officer, there are so many Sale Deeds executed in respect of the said property. Finally it was purchased by the petitioner by the two registered Sale Deeds. As rightly pointed out by the learned counsel for the petitioner, the mother of the third respondent without filing an appeal as against the order passed by the Settlement Officer, simply submitted the representation before the first respondent and died.

13. The third respondent filed writ petition before this Court to consider the representation submitted by his mother on 11.04.1994. The mother of the third respondent ought to have filed an appeal before the Tribunal as provided under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari), Act 1948. Even before filing the Writ petition in W.P.No.8109 of 2011 the third respondent executed a Sale Deed dated 24.09.2007 in respect of the said property in favour of the fourth and fifth respondents herein without any title over the property. Without considering the above, the first respondent that too, without issuing notice to the purchaser namely the petitioner herein passed an impugned order.

14. Thus it is clear, that there is a violation of principles of natural justice and on this ground, the impugned order cannot be sustained against the petitioner. It is also curious to note that the fourth and fifth respondents on the strength of the Sale Deed executed in their favour dated 24.09.2007, filed petition to cancel the patta granted in favour of the petitioner. By the proceedings dated 05.08.2010, the District Revenue Officer directed the respondents 4 and 5 and



the petitioner herein to go before the Civil Court for declaration in respect of the title over the property. Accordingly the petitioner filed suit in O.S.No.4007 of 2012 on the file of the VII Assistant City Civil Court, Chennai for declaration in respect of the subject property and it is pending.

15. The first respondent is not a competent authority to cancel the order passed by the Settlement Officer dated 15.01.1959, that too, after a period of several decades. The first respondent passed the impugned order only on the direction issued by this Court in W.P.No.8109 of 2011 dated 29.03.2011, thereby directed the first respondent to consider the representation submitted by the mother of the third respondent and pass orders.

16. Accordingly, the Impugned Proceedings dated 28.09.2011 of the First respondent in Rc.D1/5054/11 is set aside. This Writ Petition is allowed. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rna/rgi

To

1. The Commissioner of Survey and Settlement,
Directorate of Survey and Settlement,
Chepauk, Chennai - 600 005.
2. The Tahsildar,
Mambalam - Guindy Taluk,
Ashok Nagar, Chennai - 600 078.
3. The Sub-Registrar Adyar,
Kamarajar Nagar,
Adyar, Chennai - 600 020.

+1cc to Mr. Rathina Asohan, Advocate, S.R.No.48881
+1cc to the Government Pleader, S.R.No.49021

W.P.No.16702 of 2012
and M.P.Nos. 1 to 3 of 2012

AK(CO)
PM/25/10/2021