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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 26.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.31628 of 2012

and

M.P.No.1 of 2012

Vasanthha

... Petitioner

-Vs-

1.The District Collector
Kancheepuram District
Kancheepuram.

2.The Revenue Divisional Officer
Chengalpattu, Kancheepuram District.

3.The Tahsildar
Chengalpattu
Kancheepuram District.

4.Mrs.Mohana

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 2nd respondent in Na.Ka.No.8700/2012, N-4 dated 20.09.2012 and quash the same.

For Petitioner : Mr.R.Rajesh Krishnan
for Mr.L.G.Sahadevan

For Respondents: Ms.Akila Rajendran
Government Counsel for RR 1 to 3
Mr.R.Rajarajan - for R4

O R D E R

The prayer sought for herein is for a Writ of Certiorari to call for the records of the 2nd respondent in Na.Ka.No.8700/2012, N-4 dated 20.09.2012 and quash the same.

2. In respect of the property at S.No.52/2A to the extent of 0.08 hectares at Krishnankaranai Village, Chengalpattu Taluk, erstwhile Kancheepuram District, present Chengalpattu District, it seems that there has been a dispute between the petitioner and the fourth respondent.

3. In this context, the petitioner claims title stating that, the property belongs to one Saroja, from whom it was



purchased by one Gomathi, whose Power of Attorney is in favour of one Subramani, who filed a suit for injunction and that the suit was decreed on 04.04.2005 and subsequently the property was purchased by the sister of the petitioner and thereafter she settled the property in favour of the petitioner. That is how the petitioner claims title over the property.

4. Pursuant to which, it seems that Patta has been issued in the name of the petitioner by the Tahsildar concerned, which has been confirmed by the Revenue Divisional Officer. However, the said order has been reversed by the District Revenue Officer, Kancheepuram by an order dated 20.09.2012. Aggrieved over the same, the petitioner has preferred this writ petition.

4. However, the contra case as projected by the fourth respondent is that, among various properties, the property in question ie., S.No.52/2A also belongs to the family of the petitioner's husband one Gnanavel, who died before 1987. In order to get the partition of not only the property in question, but also the other family properties, the fourth respondent, along with her daughter, filed a suit in O.S.No.593 of 1987 before the Principal District Munsif Court, Chengalpattu and the suit was decreed. Thereby, among various other properties in question, the property in S.No.52/2A also has been allotted in favour of the fourth respondent and therefore, in order to establish the said factor, the fourth respondent had also produced the copy of the decree and judgment as well as the delivery of possession order taken through the execution petition in this regard filed by the fourth respondent and after having considered the same, the District Revenue Officer has passed the impugned order. Therefore, the said impugned order was passed by the District Revenue Officer concerned only based on the Civil Court decree and the execution made therein. Hence, it is the case of the fourth respondent that, the impugned order is sustainable.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the petitioner and the learned Government counsel appearing for the official respondents. Reiterating the aforesaid facts projected by the petitioner as well as the fourth respondent, the respective learned counsel made their submissions.

6. I have considered the submissions made by the learned counsel for all the parties and have perused the materials placed on record.

7. In this context, the fourth respondent has filed a typed set of papers, where the execution petition filed by the fourth respondent in pursuance of the decree made in O.S.No.593 of 1987 as referred to above, has been filed, where the property in question ie., S.No.52/2A to the extent of 0.08 hectares equal to 0.20 Acre had also been one of the property



in the schedule.

8. In the said execution petition ie, E.P.No.2 of 2002 in O.S.No.593 of 1987 on the file of the District Munsif Court, Chengalpattu, an order has been passed, whereby the delivery has been recorded in favour of the fourth respondent to various properties. Among them, the property in question ie., S.No.52/2A also has been mentioned by an order dated 16.09.2002. Therefore, prima facie it has been made clear that the property in question is one of the properties, which has been allotted to the fourth respondent in the said suit, which was decreed in favour of the fourth respondent, pursuant to which the execution petition was filed by the fourth respondent, where orders were passed on 16.09.2002 and the property in question has been delivered to the fourth respondent.

9. When that being so, this Court feels that, there can be absolutely no impediment to the District Revenue Officer to reverse the order passed by the Tahsildar as well as the Revenue Divisional Officer / second respondent concurrently. Thereby, the order of the District Revenue Officer is to be sustained and accordingly this writ petition fails.

10. In this context, if at all any contra case is to be projected by the petitioner, it is open to her to approach the competent Civil Court to establish her right over the property in question by filing appropriate suit and therefore, as of now the impugned order dated 20.09.2012 passed by the District Revenue Officer is to be sustained.

11. With the aforesaid observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

KST

To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.



3.The Tahsildar,
Chengalpattu,
Kancheepuram District.

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+1cc to Mr.L.G.Sahadeven, Advocate, S.R.No. 35515
+1cc to the Government Pleader, S.R.No. 35950

W.P.No.31628 of 2012

SR II(CO)
GN(16/08/2021)