

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 3948 of 2013

1.K.Arunagiri
2.N.Periyasamy
3.K.P.Chinnasamy

... Petitioners

Vs

1. The Tahsildar,
Sathyamangalam Taluk,
Sathyamangalam,
Erode District.

2. The District Collector,
Erode District,
Erode - 638 011.

3. The Assistant Divisional Engineer,
Highways Department,
Sathyamangalam,
Erode District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 12.11.2012 made in Na.Ka.No.7849/2011/A1 passed by the 1st respondent, quash the same and consequently direct the Respondents 1 and 2 to carry out mutation of records in the name of the petitioners in respect of the property measuring 0.09.50 Hec., comprised in R.S.No.425/2 Sathyamangalam Village, Sathyamangalam Taluk, Erode District by considering the petitioners' representation dated 26.05.2011, 24.01.2012 and 05.03.2012 respectively.

For Petitioners
For Respondents

: Mr.N.Manokaran
: Ms.A.Madhumathi
Special Government Pleader

O R D E R

This writ petition is filed for a Writ of Certiorarified Mandamus, to quash the proceedings of the first respondent viz., Tahsildar, Sathyamangalam Taluk, Erode District in Na.Ka.No.7849/2011/A1, dated 12.11.2012 and consequently, to direct the first and second respondents to carry out mutation of records in the name of the petitioners in respect of the property measuring 0.09.5 Hectares, comprised in R.S.No.425/2,

Sathyamangalam Village, Sathyamangalam Taluk, Erode District by considering the petitioners' representations dated 26.05.2011, 24.11.2012 and 05.03.2012.

2. The learned counsel for the petitioners states that the property measuring to an extent of 0.09.5 Hectares comprised in S.F.No.425/2, Sathyamangalam Village, Erode District, was the ancestral property originally owned by Tvl.M.N.Krishna Rao and M.N.Suseendran. It is stated that the petitioners' property is located on the eastern side of the Travelers Bungalow belongs to the third respondent.

3. It appears that there was some dispute in respect of the property belong to the petitioners and the petitioners' predecessor-in-interest have filed a suit in O.S.No.16 of 1993 on the file of the District Munsif Court, Sathyamangalam for declaration of their title to the suit property and for consequential permanent injunction. The suit, after full fledged trial, was decreed as prayed for by judgement and decree dated 07.03.1995. As against the same, the respondents have preferred an appeal in A.S.No.24 of 2007 on the file of the Sub Court, Gobichettipalayam. The First Appellate Court by its judgment dated 01.10.1997 partly allowed the appeal preferred by the respondents. Against which, the plaintiffs namely predecessor-in-interest of the petitioners have preferred Second Appeal in S.A.No.1766 of 1998 and the respondents have preferred Second Appeal in S.A.No.1502 of 1998.

4. It is admitted before this Court that the Second Appeal preferred by the petitioners predecessor-in-interest namely the plaintiffs in S.A.No.1766 of 1998 was allowed and the Second Appeal in S.A.No. 1502 of 1998 preferred by the respondents/dependents was dismissed. Thus, the Civil Court has declared the title in favour of the petitioners predecessor-in-interest. It is stated that Special Leave Petitions in SLP (C) Nos.2432 and 2433 of 2015 have been preferred by the respondents and now it is admitted that by order dated 16.02.2015 the said Special Leave Petitions were also disposed of in favour of the petitioners. Based on the Civil Court decree, it is admitted before this Court that one Uthirasamy has purchased the property from the original owner under a sale deed dated 02.06.1995 and that the said Uthirasamy conveyed title in favour of the petitioners. When the petitioners submitted a representation to the second respondent to carry out necessary changes in the revenue records, by the impugned order dated 12.11.2012, the first respondent has rejected the request only on the ground that the third respondent proposed to file Special Leave Petitions before the Hon'ble Supreme Court as against the judgment and decree dated 29.10.2010 in S.A.Nos.1502 and 1766 of 1998 passed by this Court and that therefore, the proceedings

should be kept in abeyance. The order of the first respondent dated 12.11.2012 is challenged before this Court.

5. Learned Special Government Pleader on instructions conceded that the Hon'ble Supreme Court has also dismissed Special Leave Petitions in SLP (C) Nos.2432 and 2433 of 2015 preferred by the respondents as against the judgment and decree dated 29.10.2010 in S.A.Nos.1502 and 1766 of 1998 passed by this Court. It is now admitted before this Court that the Hon'ble Supreme Court has upheld the title in favour of petitioners predecessor-in-interest.

6. In such circumstances, the petitioners have purchased the property from the original owner and entitled to derive the title. The modification of revenue records as per the sale deed and the Civil Court decree is mandatory by virtue of specific provisions under the Tamil Nadu Patta Passbook Act, 1983. The impugned order refusing to entertain the application for modification of entries in favour of the petitioners, is contrary to the provisions of the Act and the modification of entries, cannot be stalled unless the decree is set aside or modified by a competent Court.

7. Having regard to the admitted fact, this Court has no hesitation to hold title in favour of the petitioners and the petitioners are entitled to seek modification of entries in the revenue records in view of the subsequent sale in favour of the petitioners. The petitioners also entitled to succeed and the impugned order in Na.Ka.No.7849/2011/A1, dated 12.11.2012 passed by the first respondent/Tahsildar, is set aside and the writ petition is allowed. The modification of entries shall be done as per decree within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Tahsildar,
Sathyamangalam Taluk,
Sathyamangalam,
Erode District.

2. The District Collector,
Erode District,
Erode - 638 011.

3. The Assistant Divisional Engineer,
Highways Department,
Sathyamangalam,
Erode District.

+1cc to the Government Pleader, S.R.No.6318.

KV(CO)
CSR 10.03.2021

W.P. No.3948 of 2013



WEB COPY