



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.18113 of 2021
and
W.M.P. No.19342 of 2021

R.Vadivambal

... Petitioner

-Vs-

1.The Revenue Divisional Officer,
Tambaram,
Chengalpet District.

2.Sathiaseelan.

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Certiorari calling for the records of the 1st respondent culminating in the Notice of Enquiry ref.no.Na.Ka.1744/2021/A, dated 06.08.2021, quash the same and pass orders accordingly.

For Petitioner :: Mr.B.Harikrishnan
For Respondent-1 :: Mr.Yogesh Kannadasan
(Government Advocate)
* * * * *

O R D E R

The relief sought for in this writ petition is for a direction calling for the records of the 1st respondent culminating in the Notice of Enquiry ref.no.Na.Ka.1744/2021/A, dated 06.08.2021, quash the same and pass orders accordingly.

2. The learned counsel for the petitioner would submit the petitioner is absolute owner and exclusive possession and enjoyment of the property being all that piece and parcel of land situated in Zamin Pallavaram Village, Tamberam Taluk, Kancheepuram District comprised in old S.No. 259/2 new S. No.259/2A measuring an extent of Ac. 0-10 cents, bearing old patta No. 454, situated within the Registration District of Chennai- South and Sub Registration District of Pallavaram, having purchased the same under Sale Deed dated 26.07.2005, in Document No. 3624/2005 on the file of the SRO Pallavaram,



(hereinafter referred to as "the said property"), from the true and lawful owner, for valuable consideration. The sale deed is genuine, valid and acted upon. Ever since the date of purchase, the petitioner is in possession and enjoyment to the same. Prior to the purchase of the said property, the petitioner's vendor as its true and lawful owner was in uninterrupted possession and enjoyment of the said property. The said property formed part of larger extent, which was previously owned by one Thiruvengada Naicker. The said Thiruvengada Naicker sold an extent of Ac. 0-18 cents comprised in S.No. 259/2 to Ethiraj Naicker, who was in possession and enjoyment of the same till his lifetime. On his demise, his only son Kannappa Naicker had succeeded to his estate, which also comprises the said property. The said Kannappa Naicker died on 09.06.1978. On his demise, his two sons Kuppsami and Parthasarathy were in possession and enjoyment of the same. The said K.Parthasarathy applied for and obtained Patta No. 454 for the said property (larger extent). After the demise of Kuppasami and Parthasarathy, their legal heirs have executed a Registered Power of attorney document in favour of U.Ganesh, vide document dated 26.07.2004 registered as Document No.1095 of 2004 in SRO, Pallavaram, in respect of the said property.

3. It has been further submitted that out of Ac.0-18 cents, an extent of Ac.0-08 cents was acquired for road widening by the Government. Therefore, the legal heirs of Kuppusami and Parthasarathy executed a Power of Attorney in respect of the remaining extent of Ac. 0-10 cents; and in pursuance of powers conferred upon him, the said U. Ganesh sold and conveyed an extent of Ac. 0-10 cents to the petitioner herein, under sale deed dated 26.07.2005, registered as Document No.3624/2005 on the Sub Registrar Office, Pallavaram. Ever since the date of purchase, the petitioner is in possession and enjoyment of the said property. After purchasing the said property, the petitioner also applied for Patta and obtained the same in his name in respect of the said property. While being so, the 2nd respondent was claiming title to the said property on the strength of a sale deed dated 13.05.1991, registered as Document No.1908/1991 on the file of the Sub-Registrar Office, Pallawaram, which was brought about in a fraudulent manner. The 2nd respondent, on the strength of the said fraudulent sale deed, attempted to interfere with petitioner possession and enjoyment of the suit property. Under such circumstances, the petitioner is constrained to file a suit in O.S. 135 of 2007 on the file of the Sub-Court, Chengalpattu, which was subsequently transferred to the file of Sub-Court, Tambaram, and stood re-numbered in O.S. No. 207 of 2009. The same was disposed on 12.12.2012 by giving liberty to the petitioner to file a suit for declaration. Till the disposal of O.S.No.207 of 2009, an interim order of status quo was in force. The status quo is that



the petitioner is in possession and enjoyment of the suit property and the same is to be maintained. Pursuant to the disposal of O.S.No.207 of 2009, the petitioner filed O.S.No.58 of 2013 on the file of the District Court, Chengalpet, against the 2nd respondent seeking for declaration of petitioner title and the sale deed dated 13.05.1991 registered as Document No.1908 of 1991 in SRO, Pallavaram, in not valid and binding upon the petitioner, for permanent injunction; and other reliefs. In this suit, the 2nd Respondent has entered appearance before the Trial Court and was contesting the suit in O.S.No.58 of 2013. In the meanwhile, the 2nd respondent filed an application in I.A.No.280 of 2014 under Order VII Rule 11 CPC seeking to reject the plaint. However, after contest, the same was dismissed on 05.09.2017. It was confirmed by the this Court, vide order dated 09.10.2020 passed in CRP No.2691 of 2018. Now, the suit in O.S.No.58 of 2013 stands adjourned to 20.09.2021, for trial. When the matter stood thus, the petitioner understand that the 2nd respondent, unmindful of the pendency of O.S.No.58 of 2013, has filed an application/representation to the District Collector, Chengalpet District, seeking patta in his name in respect of the said property on the strength of the fraudulent sale deed dated 13.05.1991, registered as Document No.1908/ of 1991 on the file of the SRO Pallawaram, on the basis of which, the 1s respondent has issued the impugned notice dated 06.08.2021 calling upon the petitioner, the 2nd respondent and others, to attend an enquiry on 26.08.2021 in connection with the 2 respondent's representation seeking Patta transfer in his name. Apparently, the 2nd respondent, in his representation, has suppressed the pendency of O.S.No.58 of 2013 on the file of the District Court, Chengalpet.

4. The learned counsel for the petitioner further submitted that the 2nd respondent has also submitted a representation to the District Collector, Chengalpet, seeking for cancellation of the parent sale deed dated 10.11.1924, registered as Document No.2721 of 1921, and also has petitioned to the National Commission for Scheduled Castes, New Delhi, on the basis of which the said National Commission for Scheduled Castes has sent reminders dated 24.02.2019 & 10.06.2021, calling upon the District Collector, Chengalpet, to furnish action taken status/report within fifteen days. In view of this, the 1st respondent is keen to conduct the enquiry upon the 2nd respondent's representation seeking patta transfer.

5. The learned counsel for the petitioner further submitted that when the suit in O.S.No.58 of 2013 filed by the petitioner for declaration of title and for declaration that the sale deed dated 13.05.1991, registered as Document No. 1908 of 1991 on the file of the Sub Registrar Office, Pallawaram, is still pending disposal on the file of the Additional District Judge,



Chengalpet, the 1 respondent ought not to conduct the enquiry on the 2nd respondent's representation. Under such circumstances, the petitioner is constrained to file the present writ petition before this Court challenging the proceedings initiated by the 1 respondent herein, by invoking Article 226 of the Constitution of India.

6. The learned Government Advocate appearing for the respondent would submit that as it is questioned as to title of the said property, the petitioner has to prove his entitlement over the property. As the said property in question is being registered in favour of the petitioner as well as the 2nd respondent herein, the petitioner is bound to prove his title over the property in the enquiry. Hence, the petitioner cannot deny to attend the enquiry to be conducted by the 1st respondent herein.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and submissions made by the learned Government Advocate appearing for the 1st respondent, even though the enquiry is scheduled to be conducted on the 1st respondent's representation, the petitioner is bound to prove his stand over the said property on enquiry before the 1st respondent herein. Hence, the petitioner shall produce the relevant records of the said property along with suit papers in O.S. No.58 of 2013 pending on the file of the District Court, Chengalpet, before the 1st respondent to decide the said issue. The 1st respondent is directed to conduct the enquiry after affording sufficient opportunity to the petitioner herein and pass appropriate orders after verifying the entire relevant records with regard to the said property.

9. With the aforesaid directions, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Lbm



To:

1.The Revenue Divisional Officer,
Tambaram,
Chengalpet District.

2.The District Judge,
Chengalpattu.

+lcc to the Government Pleader, S.R.No.44598

W.P. No.18113 of 2021
and
W.M.P. No.19342 of 2021

RLD (CO)
CB (02/11/2021)