



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment Reserved On	Judgment Pronounced On
17.04.2021	26.04.2021

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CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD) Nos.458 & 696 of 2020
and C.M.P (MD) Nos. 3268 & 4151 of 2020

W.A. (MD) No.458 of 2020

Muthu Vijayan

... Appellant/5th Respondent

Vs

1. K. Muniasamy

... Respondent/Petitioner

2. The District Collector,
Ramanathapuram District,
Ramanathapuram.

3. The District Revenue Officer,
Cum Additional District Magistrate,
Ramanathapuram,
Ramanathapuram District.

4. The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

5. The Tahsildar,
Kamudhi,
Ramanathapuram District.

...Respondents/R-1 to R-4

6. The Sub Registrar,
Perunazhi, Kamudhi Taluk,
Ramanathapuram District.

7. The Sub-Registrar,
Kayalpattinam,
Thoothukudi District.

...Respondents/R-6 & R-7.

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 27.02.2020, passed in W.P.(MD) No.3495 of 2018.



Prayer in WP(MD). 3495 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 2nd respondent in Pa.Mu.(Pi5)/67569/2014, dated 09.08.2017.

For Appellant	: M/s.N. Krishnaveni, Senior Counsel for Mr.R. Ragavendran
For 1 st Respondent	: Mr.M. Saravanan
For R-2 to R-7	: Mr.K.P. Krishnadass, Special Government Pleader

W.A(MD) No. 696 of 2020

K. Muniasamy ... Appellant/Petitioner

Vs

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The District Revenue Officer,
Cum Additional District Magistrate,
Ramanathapuram,
Ramanathapuram District.
3. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
4. The Tahsildar,
Kamudhi,
Ramanathapuram District.
5. Muthu Vijayan
6. The Sub Registrar,
Perunazhi, Kamudhi Taluk,
Ramanathapuram District.
7. The Sub Registrar,
Kayalpattinam,
Thoothukudi District.

...Respondents/Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 27.02.2020, passed in W.P.(MD) No. 3495 of 2018.

<https://hcservices.ecourts.gov.in/hcservices/>



Prayer in WP(MD). 3495 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 2nd respondent in Pa.Mu.(Pi5)/67569/2014, dated 09.08.2017.

For Appellant : Mr.M. Saravanan

For R-1 to R-4, : Mr.K.P. Krishnadass,
R-6 & R-7 Special Government Pleader

For 5th Respondent : Mrs.N.Krishnaveni. Senior Counsel
for Mr.R. Ragavendran

COMMON JUDGMENT

[Judgment of the Court was delivered by **S.ANANTHI, J.**]

Both the appeals are arising out of a Common Judgment in W.P.(MD) No.3495 of 2018, dated 27.02.2020.

2. The writ petitioner had filed a writ petition to quash the impugned order, dated 09.08.2017 passed by the second respondent, cancelling a Patta which stood in the name of the writ petitioner and transfer the same in favour of the 5th respondent. The learned Single Judge of this Court has quashed the order passed by the 2nd respondent, dated 09.08.2017 and decided that Joint Patta shall be restored in the name of the writ petitioner and the 5th respondent. Aggrieved by the same, the writ petitioner and the 5th respondent have filed these two writ appeals.

3. Admittedly, the property in S.No.28/3 owned by one Vellaiyan Servai. He had two sons, namely; Muthuvijayan and Durairaj. Durairaj had no issues. Muthuvijayan had three sons, namely; Periyasamy, Kottaisamy and Chellasamy. The writ petitioner is a grand son of the Periyasamy. The 5th respondent is the son of Chellasamy. Chellasamy had mortgaged the property to Kottaisamy, who is father of the writ petitioner. After the demise of Chellasamy, the 5th respondent had executed an another mortgage deed in favour of the father of the writ petitioner.

4. The mortgage deed, dated 24.08.1977 was filed in W.A.(MD) No.458 of 2020. On perusal of the said mortgage deed, dated 24.08.1977, it is found that only one acre in S.No. 28/3 was mortgaged by the father of the 5th respondent. He admitted that the western boundary is belonging to Kottaisamy, who is father of the writ petitioner. But, the writ petitioner by misrepresentation managed to get Patta for the whole extent of 2 acre 40 Cents in S. No. 28/3 which is situated in Perunazhi on the basis of mortgage



deeds.

5. The relevant paragraph No.5 of the order, dated 27.02.2020 in W.P.(MD) No.3495 of 2018 is extracted hereunder:

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"It appears that the petitioner by misrepresentation managed to get patta for the whole extent of two acres 40 cents in S.No.28/3 in Perunazhi, on the basis of the mortgage deeds, which his father had obtained from the fifth respondent's father and fifth respondent earlier. The petitioner states that he has put up a marriage hall in the entire extent of the property in S.No.28/3 and that therefore, he was in possession of the property. Since patta had been wrongly transferred in the name of petitioner during UDR in respect of entire property in S.No.28/3, the fifth respondent had approached the District Revenue Officer, for modification of entry on account of mistake during UDR. The District Revenue Officer after considering the fact that the patta was standing in the name of M.Chellamy (father of 5th respondent) and the petitioner had obtained patta in respect of the full extent of the land in S.No.28/3 on the basis of the mortgage stated to have been executed by the fifth respondent's father and the fifth respondent himself, by the impugned order cancelled the patta standing in the name of the petitioner and the mutation was directed to be in the name of fifth respondent, who is the legal heir of Chellamy. The District Revenue Officer further directed the revenue officials to carryout necessary amendments in Patta on the basis of the legal heirship certificate that may be produced by in W.P.(MD)No.3495 of 2018 the fifth respondent, as the legal heir of Chellamy".

6. Further, the writ Court in its order has clearly found that the Patta transfer is wrong and the relevant paragraph Nos.7 to 9 are extracted hereunder:

7. the conclusion of District Revenue Officer that the property originally stood in the name of Chellamy must be incorrect, when the character of the property and its ownership in favour of Vellaian Servai is not in dispute. When no other document between the parties is produced by anyone, the rights of properties, as borne out from the records would indicate that the petitioner as well as the fifth respondent or their predecessor-in-interest had divided the property into two parts. Even though there is no



partition deed, which is pleaded or projected before the revenue officials, this Court at least without reference to the extent, can make out that eastern one acre was allotted to the fifth respondent's father and fifth respondent and the western portion was allotted to the petitioner's predecessor-in W.P.(MD)No.3495 of 2018 interest.

8.The petitioner has earlier fraudulently applied for patta in respect of the whole property on the basis of the mortgage, which does not confer title in favour of the petitioner. The petitioner also, in fact, acknowledged the fifth respondent's right in respect of eastern extent. Later, the fifth respondent in a similar fashion, fraudulently claimed patta for the entire land ignoring the right, which was acknowledged by the fifth respondent himself in the mortgage deed in respect of the property on the western side. Both parties have committed fraud and their intention appear to be to grab the land of another by fraudulently giving false statements.

9. Therefore, this Court is of the view that the Writ Petition is liable to allowed, however, subject to terms requiring both petitioner as well as the fifth respondent to pay a sum of Rs.10,000/- each to the Legal Services Authority attached to this Bench within a period of two weeks from the date of receipt of a copy of this order. Though this Court suggested that cost would be waived, if the parties agree to put an end to the litigation by entering into a compromise, both the Counsels have not responded. The impugned order, dated 09.08.2017 passed by the second respondent is quashed. The patta shall be restored in the name of petitioner and fifth respondent, by the second respondent within a period of four weeks from the date of receipt of a copy of this order. The parties are given liberty to workout their remedy in relation to the mortgage as per law. The Writ Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

7. But, the title to the property could not be decided either by this Court or by the Revenue officials. Therefore, the parties are directed to approach the concerned Civil forum to seek their remedies.

8. In view of the above, the writ petitioner and the 5th respondent cannot be compelled to pay a Cost of Rs.10,000/-each, to the Legal Services Authority, attached to this Bench in case if they enter into compromise. The order of the writ Court



directing the parties to pay such cost is hereby set aside.

9. In the result, these writ appeals are dismissed. The order passed by the learned Single Judge of this Court in W.P.(MD) No.3495 of 2018 dated, 27.02.2020 is hereby confirmed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The District Revenue Officer,
Cum Additional District Magistrate,
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Perunazhi, Kamudhi Taluk,
Ramanathapuram District.



6. The Sub-Registrar,
Kayalpattinam,
Thoothukudi District.

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+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-17490[F] dated
26/04/2021)

Common Order made in
W.A.(MD)Nos.458 & 696 of 2020
26.04.2021

ES (CO)
TR(18.05.2021) 7P 8C