



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.06.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.16741 of 2020

and W.M.P. (MD) Nos.13974,13975 of 2020

1.Xavier

2.Arul

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

3.Chellam

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 03.01.2020 of the 1st respondent in Mu.Mu.A1-6817-2017 and consequential order date of the 1st respondent dated 21.10.2020 in O.Mu.A1/7612/2020 and quash the same and consequently direct the respondents to restore the patta granted in favour of the petitioners for property in Survey Nos.327/3A and 327/3B situated at Thidakottai Group, Devakottai Taluk, Sivagangai District.

For Petitioners : Mr.J.Anandkumar

For Respondents : Mr.M.Lingadurai

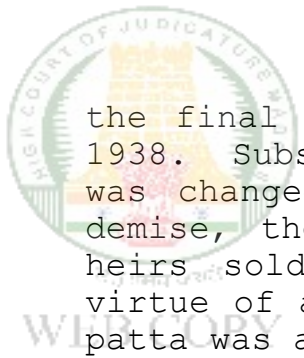
Govt. Advocate for R1 & R2

Mr.P.Muthusamy for R3

ORDER

The subject matter of challenge in the present Writ Petition is the impugned order passed by the first respondent dated 03.01.2020 and the consequential order passed on 21.10.2020, wherein the patta granted in favour of the petitioners for the subject property was cancelled, based on the application submitted by the third respondent.

2. The case of the petitioners is that the subject property was allotted in favour of one Pichaikutty Udayar in a partition suit in



the final decree proceedings in I.A.No.62 of 1976 in O.S.No.70 of 1938. Subsequently, the revenue records as well as the 'A' Register was changed to the name of the said Pichaikutty Udayar. On his demise, the properties devolved on his legal heirs and the legal heirs sold the said properties in favour of the petitioners by virtue of a registered sale deed dated 19.12.2011. Thereafter, the patta was also transferred in the name of the petitioners.

3. The third respondent seems to have made an application before the first respondent seeking for cancellation of patta issued in favour of the petitioners. The first respondent passed the impugned order directing the cancellation of the patta granted infavour of the petitioners. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Heard Mr.J.Anandkumar, learned counsel appearing for the petitioners, Mr.M.Lingadurai, learned Government Advocate appearing for the respondents 1 and 2 and Mr.P.Muthusamy, learned counsel appearing for the third respondent.

5. On a careful perusal of the records filed in the present Writ Petition, it is seen that the third respondent along with six others had filed a suit against the petitioners and one another seeking for the relief of declaration and permanent injunction. In the said suit, the third respondent and others had claimed an exclusive right over the property situated in Survey Nos.327/3B and 327/3. The suit was contested and it was dismissed by judgment and decree dated 02.11.2016. It was further confirmed in the appeal in A.S.No.3 of 2017 by the Sub Court, Devakottai, by judgment and decree dated 20.11.2019.

6. It is seen that the third respondent has subsequently approached the first respondent and sought for cancellation of patta issued in favour of the petitioners. The main grievance that was expressed by the petitioner is that they were not put on notice and the first respondent has completely disregarded the judgment passed by the civil Court and has proceeded to cancel the patta issued in favour of the petitioners.

7. The first respondent is bound by the judgment passed by the civil Court in which the third respondent was a party. Admittedly, the third respondent has approached the first respondent even during the pendency of the appeal by giving a representation dated 23.08.2017. Obviously, the third respondent had concealed the material fact that there was a civil proceeding pending between the parties.

8. The impugned order passed by the first respondent apart from being vitiated on the ground of violation of principles of natural justice is also liable to be quashed on the ground that the first respondent completely disregarded the judgment and decree passed



by a competent civil Court.

9. In view of the same, the impugned order passed by the first respondent in proceedings dated 03.01.2020 is hereby quashed and there shall be a direction to the second respondent to immediately restore the patta granted in favour of the petitioners with respect to the subject properties within a period of four weeks from the date of receipt of a copy of this order.

10. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-20726[F] dated 30/06/2021)

W.P. (MD) .No.16741 of 2020
and W.M.P. (MD) Nos.13974 & 13975 of 2020
29.06.2021

KB(07.07.2021) 3P 4C