IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.26419 OF 2013 AND 10628 OF 2015

The Tamil Nadu Brick & Tile Mrfs. Industrial
Service Co-op. Society Ltd.,
rep. by its Secretary
K.Rajan ... Petitioner in W.P.26419/2013

1.J.Sivakumar
2.T.Dinesh
3.M.Shankar
4.S.Thiyagarajan
5.S.Elumalai
6.G.Raghu
7.A.S.Muralidharan
8.K.Chandramoorthy ... Petitioners in W.P.10628/2015

Vs.

1. The Inspector General of Registration,
   Chennai - 600 028.

2. The District Registrar (South),
   No.9, Jones Road,
   Saidapet,
   Chennai - 600 015.

3. The Sub Registrar,
   Virugambakkam,
   Chennai.

4. Mumtaj Beevi
5. J.Sivakumar
6. T.Dhinesh
7. M.Shankar
8. S.Thiyagarajan
9. S.Elumalai
10.G.Ragu
11.A.S.Muralidharan
12.K.Chandira Moorthy
13.J.Sivakumar ... Respondents in W.P.26419/2013

1. The District Revenue Officer,
   Tiruvallur District at Tiruvallur.

2. The Revenue Divisional Officer,
   Ponneri, Tiruvallur District.

3. The Tahsildar,
   Ambattur Taluk,
   Ambattur,
   Chennai.

4. M/s.Tamil Nadu Brick and Tile
   Manufacturing Industrial Service
   Co-op. Society
   rep. by its President

5. V.K.Nasar ... Respondents in W.P.10628/2015

Prayer in W.P.No.26419 of 2013:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in No.33570/U1/2013 dated 14.08.2013 on the file of the first respondent quash the same and direct the respondents 1 to 3 to cancel the sale deeds dated 07.01.2013 in Document Nos.3348 to 3355 of 2013, Sub Registrar, Virugambakkam executed between the respondents 4 to 12 and initiate criminal proceedings against the respondents 4 to 12.

Prayer in W.P.No.10628 of 2015:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the first respondent from proceeding with the revision petition pending on its file filed by the fifth respondent herein, till the civil suit in O.S.No.297 of 2013 on the file of
District Munsif Court at Poonamallee is decided on merits between the writ petitioners and fourth respondent herein in respect of the lands comprised in (i) Survey No.252/2 measuring acre 0.49 cents out of acre 0.55 cents, (ii) Survey No.247/6B1 measuring acre 0.49 cents out of acre 1.36 cents, (iii) Survey No.248/1A2, Old Survey No.249/1A measuring acre 0.49 cents, (iv) Survey No.247/6B1, Old Survey No.247/6 measuring acre 0.49 cents out of acre 1.36 cents, (v) Survey No.247/6B1, Old Survey No.247/7 measuring acre 0.38 cents out of acre 1.36 cents, (vi) Survey No.252/2, Old Survey No.252 measuring acre 0.37 cents, and New Survey No.255/1, old Survey No.251 0.05 cents, in all

0.43 cents (vii) Survey No.251/1B, Old Survey No.251 measuring acre 0.19 cents and land comprised in New Survey No.252/2, old Survey No.252, measuring 0.19 cents, in all 0.49 cents and (viii) Survey No.254/1B, Old Survey No.254/1 measuring acre 0.49 cents out of acre 0.68 cents, covered in Old Patta No.336, New Patta No.3898, situated at Maduravoyal Village, Ambattur Taluk, Trivellore District.

For Petitioners: Mr.V.Elangovan
in W.P.No.26419 of 2013
Mr.K.Premkumar
in W.P.No.10628 of 2015

For Respondents: Mr.T.Chezhiyan for R1 to R3
Additional Government Pleader
M/s.Mc.Gan Law Firm for R4
M/s.J.Srinivasa Mohan for R5 to R12
in W.P.No.26419 of 2013

Mr.T.Chezhiyan
Additional Government Pleader
M/s.Mc.Gan Law Firm for R5
in W.P.No.10628 of 2015

C O M M O N   O R D E R

Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

2.The brief facts of the case is that one Abdul Kareem was the original owner of the subject property and he was in arrears of income tax and wealth tax to the tune of Rs.5,56,265/- and the income tax department proceeded against him for recovery of the amount. The said Abdul Kareem died on 05.02.1983 and hence the subject properties were brought to auction, after due notice to his legal heirs. M/s.Tamil Nadu Brick and Tile Manufacturing Industrial Service Co-operative Society (hereinafter referred to as 'society') was the successful bidder and the society paid the entire sale consideration and it is in possession of the property from 06.06.1987 and sale certificate was issued to the society on 18.06.1987.

3.Whileso, the legal heirs of the said Abdul Kareem entered into settlement deed on 15.04.2005 settling the subject property in favour of Mumtaj Beevi/ wife of Abdul Karem/ fourth respondent in W.P.No.26419 of 2013 and registered the same as Document No.2128 of 2005 on the file of the Sub Registrar, Virugampakkam and also obtained patta. Thereafter she executed sale deeds in favour of respondents 5 to 12 in W.P.No.26419 of 2013 on 07.01.2013. Hence, the society made representation to the respondents 1 to 3 in W.P.No.26419 of 2013 seeking to cancel the said sale deeds, however, they passed the impugned order. Hence, W.P.No.26419 of 2013 was filed.

4.The petitioners in W.P.No.10628 of 2015 are the purchasers who bought the property from Mumtaj Beevi/ wife of Abdul Karem/ fourth respondent in W.P.No.26419 of 2013 and they filed suit in O.S.No.297 of 2013 on the file of the District Munsif Court at Poonamallee against the society and obtained an order of ad-interim injunction on 01.07.2013. They also filed I.A.No.754 of 2013 seeking to appoint Advocate Commissioner and Warrant of Commission was issued on 01.07.2013. Whileso, they came to know that the Revenue Divisional Officer cancelled the patta issued in favour of the legal heirs of deceased Abdul Kareem and issued patta in favour of the society. Hence, one A.K.Nasar, legal heir of deceased Abdul Kareem filed revision petition before the District Revenue Officer. Hence, the petitioners intended to put forth their contentions before the District Revenue Officer, however, according to them, the District Revenue Officer intends to proceed with the revision petition without hearing them. Hence, W.P.No.10628 of 2015 was filed.

5.The learned counsel appearing for the petitioner in W.P.No.26419 of 2013 submitted that patta is not title, however, based on the patta, the said Mumtaj Beevi executed eight sale deeds which is non est in law and the said sale deeds are liable to be set aside.

6.The learned counsel appearing for the petitioners in W.P.No.10628 of 2015 submitted that already the petitioners filed suit in O.S.No.297 of 2013 on the file of the District Munsif Court at Poonamallee for injunction and the same is pending. Initially, an order of interim injunction was granted and subsequently, the same was vacated. Further, the petitioners have also filed suit in O.S.No.425 of 2020 on the file of the learned Principal District Judge, Thiruvallur for declaration. Pending civil suits, taking coercive steps against the petitioners is not sustainable one.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the present case is not disputed. Admittedly, one Abdul Kareem was the original owner of the subject property and he was in arrears of income tax and wealth tax to the tune of Rs.5,56,265/- and the income tax department proceeded against him for recovery of the amount. The said

Abdul Kareem died on 05.02.1983 and hence the subject properties were brought to auction, after due notice to his legal heirs. The society/ petitioner in W.P.No.26419 of 2013 was the successful bidder and the society paid the entire sale consideration and it is in possession of the property from 06.06.1987 and sale certificate was issued to the society on 18.06.1987.

9.The petitioners in W.P.No.10628 of 2015 claim that they purchased the property from Mumtaj Beevi/ wife of Abdul Karem/ fourth respondent in W.P.No.26419 of 2013. The petitioners in W.P.No.10628 of 2015 have filed suits in O.S.No.297 of 2013 on the file of the District Munsif Court at Poonamallee for injunction and O.S.No.425 of 2020 on the file of the learned Principal District Judge, Thiruvallur for declaration.

10.Considering the facts and circumstances of the case, the possession of the society/ petitioner in W.P.No.26419 of 2013 shall not be disturbed till the disposal of the suits in O.S.No.297 of 2013 on the file of the District Munsif Court at Poonamallee and O.S.No.425 of 2020 on the file of the learned Principal District Judge, Thiruvallur. If the petitioners in W.P.No.10628 of 2015 succeeds in the said suits, they are at liberty to make fresh application before the revenue Authorities for issuance of patta.

11.These writ petitions are disposed of on the above terms. No costs. Consequently, connected miscellaneous petition/s, if any, is/are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
   Chennai - 600 028.

2. The District Registrar (South),
   No.9, Jones Road,
   Saidapet, Chennai - 600 015.

3. The Sub Registrar,
   Virugambakkam,
   Chennai.

4. The District Revenue Officer,
   Tiruvallur District at Tiruvallur.

5. The Revenue Divisional Officer,
   Ponneri, Tiruvallur District.

6. The Tahsildar,
   Ambattur Taluk,
   Ambattur, Chennai.

+1cc to M/s.Mc.Gan Law Firm, Advocate, S.R.No.14835
+1cc to Mr.S.Doraisamy, Advocate, S.R.No.14843
+1cc to the Government Pleader, S.R.No.15503
+1cc to Mr.K.Premkumar, Advocate, S.R.No.15124

W.P.Nos.26419 of 2013
and 10628 of 2015

MT(CO)
PM/04/04/2022