

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.2702 of 2013
and
W.M.P.Nos.1 & 2 of 2013

D.Gunasekaran

... Petitioner

Vs.

1. The Secretary to Government,
Department of Revenue and Disaster Management,
Government of Puducherry,
Puducherry.
2. The Tahsildar,
Ulugaret Taluk Office, E.C.R.
Puducherry - 605 008.
3. The Inspector of Police,
Lawspet Police Station,
Lawspet,
Pondicherry.
4. N.Muthukumaran

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Mandamus, calling for the records of the 2nd respondent in his proceedings in No.2002/TOO/LG/FS/2012 dated 20.12.2012 and quash the same.

For Petitioner : Mr.Stalin Abinaniyu
For Respondents: Mr.C.T.Ramesh
Additional Government Pleader
(Puducherry)

O R D E R

This petition has been filed challenging the impugned proceedings of the 2nd respondent dated 20.12.2012.

2.The case of the petitioner is that his wife had purchased certain plots through a registered Sale Deed dated 31.08.2006. The wife of the petitioner traced her title from the registered Sale Deed dated 22.11.1990 and according to the petitioner, there was absolutely no encumbrance or cloud over the title from the period 1990 up to the time when the Sale Deed was executed in favour of the wife of the petitioner.

3.The grievance of the petitioner is that the 4th respondent seems to have given a petition whereby he has questioned the right of the wife of the petitioner over the plots and he had also relied up on a registered Sale Deed dated 17.08.1998 which document stood in the name of his mother. According to the petitioner, the 2nd respondent ought to have relegated the parties to a Civil Court and should not have decided the right and title over the property between the parties. The main ground that has been taken by the petitioner is that the 2nd respondent having found that the parties will have to go only before the civil court to agitate their rights, ought not to have given findings on the right and title over the property based on the documents relied upon by the parties.

4.The 2nd respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

I further submit that the Department of Revenue and Disaster Management, Government of Puducherry had issued a G.O. bearing G.O.Ms.No.104, dated 16.11.2007 relating to the constitution of Administrative Advisory Committee to deal with land disputes. The composition of the Administrative Advisory Committee comprised of Tahsildar, Taluk Office, Sub-Registrar, Taluk Surveyor, Station House Officer of the concerned locality. I further submit that the scope and function of the Administrative Advisory Committee is as follows:

- i. The Committee will examine all the private disputes relating to landed properties including those referred by the Station House Officers, by calling the parties for enquiry, examining the documents, Government records etc., and measuring the disputed properties.
- ii. The Committee will render appropriate advice to the parties in dispute, so that the law and order is maintained in the jurisdiction of the concerned SHO.

iii. In case of dispute over possession of the property, the matter may be referred to the Sub Divisional Magistrate to proceed under section 145 of Cr.PC. In the event of dispute over title, the parties may be advised to approach the concerned civil court under whose jurisdiction the matter falls.

iv. The services of the Puducherry Legal Services Authority may also be utilized to settle the problem amicably and for this purpose, the committee will function as a facilitator.

I submit that summons were issued to the petitioner and the 4th respondent calling for records, documents to substantiate their views to ascertain the genuineness of the request of the 4th respondent. Accordingly, the 4th respondent has produced the sale deed, wherein Adiery Kanagarajan and Pattattary Srija executed the same in favour of 4th respondent's mother. The executant got the property from one Thiru Vinayagam s/o Narayanasamy by a valid sale consideration who inherited the same by way of release deed from one Louie Chinnaya Arokiasamy, Louie Prakasam Kannaiya and Rathinamary.

I further submit that the petitioner in his submission stating that the land was purchased from Thiru Narasimalou @ Narayanasamy s/o Boovaragalou and allegation against him by the 4th respondent before the District Authority is not correct and baseless.

I submit that the documents produced by the petitioner and 4th respondent, the Taluk Surveyor has been directed to examine the field status. Accordingly, the Taluk surveyor reported that the land in question was originally belongs to Louie Chinnaya Arokiasamy, Louie Prakasam Kannaiya and Rathinamary and they have given release to Thiru Vinayagam and Thiru Narasimalou. The boundaries of the extent in respect of the release deed executed in favour of Thiru Vinayagam and Narasimalou are as under.

In the release deed executed in favour of Vinayagam measuring to an extent of 1 Kani 60 kuzhi and 6 vee, the following boundaries are mentioned in the release deed i) East of land in R.S.No.224, 225/3, 225/4, 225/6, ii) North of R.S.No.235 pt., iii) South of R.S.No.224 and iv) West of R.S.No.239/5 remaining of land who going to get release deed.

In respect of the release deed executed in favour of Narasmimalou, measuring to an extent of 2 kani 21 kuzhi 6 vee the following boundaries are mentioned as i) East of R.S.No.224 & Narayanasamy @ Vinayagam's land ii) West of R.S.No.239/5 remaining extent of seller's land. iii) North of R.S.No.235 & 236 land and iv) South of land in R.S.No.143/9 of Karuvadikuppam Revenue Village.

I further submit that the land in dispute falls in the portion of release deed executed in favour of Vinayagam by the principle vendor and not in the portion of Narasmimalou.

I submit that based on the finding of the field status and document adduced, I felt that the issue could be sorted out before the legal forum by both the parties and advised accordingly.

I submit that the respondent is acted as per the provisions laid down in the G.O. and not usurped the powers of the civil court and the report of the respondent regarding the claim of the petitioner and the 4th respondent is only revealing the exact status on the field and not to interfere with the civil dispute.

5.Heard Mr.Stalin Abinaniyu, learned counsel appearing on behalf of the petitioner and Mr.C.T.Ramesh, learned Additional Government Pleader (Puducherry) appearing on behalf of the respondents.

6.It is clear from the counter affidavit filed by the 2nd respondent that the 2nd respondent has not rendered any findings which will bind the parties and it is more in the nature of a prima facie consideration which ultimately led to the 2nd respondent directing the parties to approach a competent civil Court. It is therefore clear that the 2nd respondent never attempted to decide the title between the parties and consequently, the findings of the 2nd respondent will not have any bearing on both the parties when they agitate their right and title over the property before the competent civil court.

7.In view of the above discussion, this Court does not find any ground to interfere with the impugned proceedings of the 2nd respondent except to clarify that the findings rendered by the 2nd respondent in the impugned proceedings does not decide the title and right of the parties over the property and it will be left open to the parties to agitate the same before the

competent civil Court and the civil court will decide the dispute purely based on merits and in accordance with law, without being influenced by the prima facie findings rendered by the 2nd respondent.

8.This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
Department of Revenue and Disaster Management,
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Puducherry.
2. The Tahsildar,
Ulugaret Taluk Office, E.C.R.
Puducherry - 605 008.
3. The Inspector of Police,
Lawspet Police Station,
Lawspet,Pondicherry.

+1cc to the Government Pleader(Puducherry), S.R.No.39091

W.P.No.2702 of 2013
and W.M.P.Nos.1 & 2 of 2013

SKM[co]
NSK/12/07/2022