



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4241 of 2013
and
W.M.P.No.1 of 2013

E.Narayanaswamy (deceased)

1. Mrs.V.Ramani
 2. N.Saravanan
 3. N.Gajapathy
- (Petitioners 2 to 4 are impleaded as per the order in W.M.P.No.13368 of 2019 in W.P.No.4241 of 2013 dated 11.03.2022) ... Petitioners

Vs.

1. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
2. Revenue Divisional Officer,
Kancheepuram.
3. Ramachandra Reddy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent in Na.Ka.17228/2012 No.3 and quash the order therein dated 23.11.2012 and thus restore the order of the 2nd respondent.

For Petitioners	: Mr.A.Muthukumar
For Respondents R1 & R2	: Mr.M.Murali, Government Advocate
For Respondent R3	: Mr.A.Vimalraj for N.R.Anantharamakrishnan

O R D E R

The petitioners have filed this writ petition seeking quashment of the impugned order in Na.Ka.17228/2012 No.3 dated 23.11.2012 passed by the 1st respondent.



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2. The case of the petitioners is that the properties comprised in Survey Nos.166, 282/1, 283/1, 283/2F, 283/2E and 284/10 were originally owned by one Ganga Reddy and thereafter, they were mortgaged to the petitioner (deceased) for a loan of Rs.25,000/-, re-payable with interest @ 12% per annum. Subsequently, the said Ganga Reddy entered into a sale agreement with the petitioner and he conveyed the said properties for consideration of Rs.30,000/-, fixing four year period. However, even before the expiry of four year period, the said Ganga Reddy sold the property to the wife of the 3rd respondent. Aggrieved by the same, the petitioner (deceased) filed a suit in O.S.No.33 of 1987 before the Subordinate Judge, Kancheepuram, for specific performance impleading the said Ganga Reddy and the subsequent purchasers. Subsequently, the wife of the 3rd respondent also filed a suit in O.S.No.139 of 1992 on the file of the said Subordinate Judge for injunction and the same was decreed on 15.10.1993 in favour of the petitioner (deceased), against which, the 1st and 2nd defendants therein preferred First Appeal before the District Court, Chengalpattu in A.S.Nos.1 & 18 of 1994 and the same were allowed and the suit for specific performance was dismissed.

3. Thereafter, against the decrees of the first Appellate Court, the petitioner preferred S.A.No.97 of 1996 and S.A.No.997 of 1976 before this Court and the same were allowed on 15.02.2006 by this Court, decreeing the petitioner's suit for specific performance. Subsequently, the wife of the 3rd respondent filed SLP(Civil)No.1009 of 2007 before the Hon'ble Supreme Court of India, which was dismissed at the admission stage itself on 26.02.2007. Thereafter, an Execution Petition in E.P.No.34 of 2006 was filed by the petitioner and the subsequent purchasers, and the same was contested by the wife of the 3rd respondent and her sons by filing E.A.Nos.12, 13 & 21 of 2007. The above suit filed by the petitioner was decreed and the registered sale deed was executed in his favour by this Court on 14.03.2008. Against the said order in E.A.No.21 of 2007, the wife of the 3rd respondent preferred CRP (NPD).No.877 of 2008 and the same was dismissed by this Court on 10.03.2008. Thereafter, the petitioner was in possession and enjoyment of the properties in question.

4. Thereafter, the petitioner filed an application for issuance of Patta before the Tahsildar, Uthiramerur, and subsequently, the Patta was also transferred in his favour on 17.09.2008. Subsequently, for cancelling the Patta granted in favour of the petitioner, the 3rd respondent filed an appeal before the 2nd respondent and the 2nd respondent herein confirmed the issuance of Patta in favour



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of the petitioner. Aggrieved by the order of the 2nd respondent, the 3rd respondent preferred another appeal before the 1st respondent and the 1st respondent in Na.Ka.No.17228 of 2012 allowed the appeal on 23.11.2012 setting aside the order of the 2nd respondent on the ground that the injunction suit was pending between the parties. Challenging the said order dated 23.11.2012, this Writ Petition is filed.

5. The learned counsel for the petitioner submitted that, though all the civil proceedings ended in favour of the petitioner and the Patta was also granted in favour of him by the Tahsildar, Uthiramerur and to that effect, the same was also confirmed by the Revenue Divisional Officer on the ground that a suit in O.S.No.15 of 2010 on the file of District Munsif Cum Judicial Magistrate, Uthiramerur was pending between the parties, however, injunction suit will not confer any title over the properties in question. Further, it is submitted that the title was already confirmed in favour of the petitioner by the Apex Court. Hence, the order of the 1st respondent is non-est in law. Accordingly, the said order is liable to be set aside.

6. The learned counsel appearing for the respondents submitted that though the petitioner has got the sale deed executed in his favour by registering the Court decree, however, the suit in O.S.No.15/2010 for permanent injunction against the 3rd respondent is still pending. Thus, against the order of the 2nd respondent, confirming the Patta transferred in favour of the petitioner, the 1st respondent passed the impugned order dated 23.11.2012 on the ground that the injunction suit was pending between the parties.

7. A perusal of the materials available on record reveal that the suit in O.S.No.33/1987, filed by the petitioner for specific performance and the counter suit in O.S.No.139/1992 for injunction filed by the wife of the 3rd respondent ended in favour of the petitioner by the Hon'ble Apex Court dismissing the SLP(Civil)No.1009 of 2007 filed by the wife of the 3rd respondent and consequent upon the same, the execution petition filed by the petitioner for execution of the sale deed in favour of the petitioner was allowed by the Court below pursuant to which the Tahsildar has also granted Patta in favour of the petitioner, which has been confirmed by the 2nd respondent vide order dated 23.04.2012. However, the 1st respondent, not appreciating the aforesaid facts, has allowed the appeal and set aside the order of the 2nd respondent, merely citing the pendency of the injunction suit.



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8. It is to be pointed out that the suit filed by the wife of the 3rd respondent is only for injunction and it is no way deals with the title to the property. The title to the property having already been confirmed by the Hon'ble Supreme Court in favour of the petitioner and a decree to that effect has also been granted by the competent Civil Court, which has since been registered, the Tahsildar has rightly granted Patta in favour of the petitioner, which has been confirmed by the 2nd respondent, appreciating the fact that the petitioner is possessed of title to the property, the said title having been declared in favour of the petitioner by all the judicial forums finally being approved by the Hon'ble Apex Court. That being the undisputed position, citing an injunction suit, which is stated to be pending, the 1st respondent has cancelled the Patta granted in favour of the petitioner, which is wholly arbitrary, illegal and perverse. The said order passed by the 1st respondent cannot be sustained in the eye of law and the same deserves to be set aside.

9. For the reasons aforesaid, the impugned order dated 23.11.2012 cancelling the Patta granted in favour of the petitioner by the 1st respondent is set aside and this Writ Petition is allowed by restoring the Patta granted to the petitioner by the 3rd respondent. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2. Revenue Divisional Officer,
Kancheepuram.

+1 cc to Mr.A.Muthukumar, Advocate Sr.NO.16942

+1 cc to Mr.N.R.Anantharamakrishnan, Advocate Sr.NO.16559

+1 cc to Government Pleader Sr.NO. 17010

W.P.No.4241 of 2013

AAK(CO)

A.SK(10/06/2022)