

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P. No.9830 of 2013

and

M.P. No.1 of 2013

P.V.A.Selvam

.. Petitioner

Vs.

1. The Director,
Directorate of Survey & Settlement,
Puducherry.

2. Tasildar,
Taluk Office,
Puducherry.

3. Jamila Bee @ Nazeema Bee.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorarified Mandamus to call for the concerned records relating to the order made in Appeal No.15 of 2011 dated 04.04.2013 passed by the first respondent and quash the same and consequently direct the respondents to restore the previous entry in the revenue records in favour of the petitioner.

For Petitioner : Mr.M.Gnanasekar

For Respondents 1&2 : Mr. C.T.Ramesh
Additional Government Pleader

3 : Mr. K.Sasindran

O R D E R

The subject matter of challenge in the present Writ Petition pertains to the order passed by the first respondent in Appeal No.15 of 2011 dated 04.04.2013 wherein the first respondent has allowed the appeal filed by the third respondent and directed the deletion of the name of the petitioner from the revenue records and for the restoration of the earlier entry

made in favour of Thiru.A.Sheik Moideen and five others with respect to the subject property.

2. The case of the petitioner is that the subject property was purchased by him through a registered sale deed dated 10.07.1995 and patta was also issued in his name. The further case of the petitioner is that an attempt was made to interfere with the possession and enjoyment of the property which resulted in initiation of proceedings under Section 145 Cr.P.C. Ultimately, the Sub-Divisional Magistrate passed an order under Section 148 Cr.P.C., dated 01.02.2008 wherein it was categorically found that the property is in possession and enjoyment of the petitioner and his wife.

3. The third respondent seems to have filed an appeal before the first respondent for changing the name in the revenue records based on the documents submitted by the third respondent. The first respondent acted upon the application submitted by the third respondent and passed the impugned order dated 04.04.2013. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Heard Mr. M.Gnanasekar, learned counsel for the petitioner, Mr.C.T.Ramesh, learned Additional Government Pleader for the first and second respondent and Mr. K.Sasindran, learned counsel for the third respondent.

5. This Court has carefully considered the submissions made on either side and the materials available on record. A careful reading of the impugned order passed by the first respondent shows that the petitioner did not participate in the proceedings and a finding has been rendered to the effect that repeated summons were served on the petitioner and in spite of the same, the petitioner chose not to participate in the proceedings. The first respondent has further rendered a finding to the effect that there were civil proceedings initiated by the father of the third respondent and it was found that he was in possession and enjoyment of the property. The first respondent has also given a finding to the effect that there are no entries found in the encumbrance certificate for the period from 01.01.1983 to 21.01.2013 and the only entry that is found was dated 12.09.1997 wherein a release deed was executed in favour of the third respondent with respect to the subject property. Based on all these findings, the first respondent has chosen to direct the deletion of the name of the petitioner and for the restoration of the original entries in the revenue records.

6. The petitioner is specifically tracing the title to the property by virtue of a registered sale deed dated 10.07.1995. On a careful reading of the sale deed, it is seen that the title

is traced through a sale certificate issued by a Court in the year 1967. This document has been registered on the file by Registrar of Pondicherry on 10.07.1995 and the sale deed has been allotted Document No.4694/96. In the light of a registered document in the name of the petitioner in the year 1995, it is not known as to how the first respondent rendered a finding as if there were no entries in the encumbrance certificate from the period from 1983 to 2013.

7. The third respondent is tracing her right and title over the subject property by virtue of a release deed dated 12.09.1997 registered as document No.5158/1997. This document is subsequent to the sale deed executed in favour of the petitioner. It is not known as to how the title is traced with respect to the subject property in this release deed and there are no prior documents filed before the first respondent except the judgment rendered in O.S. No.500 of 1973 and A.S. No.124 of 1975.

8. If the petitioner had effectively participated in the proceedings and submitted all the relevant documents, the first respondent would have properly appreciated the merits of the claim made by both the sides. Unfortunately, the first respondent has passed the order only based on the claim made by the third respondent and the merits of the case on the side of the petitioner was not considered.

9. In the light of the above discussion, this Court is inclined to interfere with the order passed by the first respondent and remand the matter back to the file of the first respondent with a direction to afford opportunity to both sides and to pass orders within a time frame fixed by this Court.

10. In the result, the impugned order passed by the first respondent dated 04.04.2013 is hereby set aside and the matter is remanded back to the file of the first respondent. The first respondent is directed to issue notice to the petitioner and the third respondent and deal with the claims of either side on its own merits and strictly in accordance with law. The findings rendered in this Writ Petition shall not have any bearing and it is left open to the first respondent to independently consider the claims. The first respondent shall pass final orders within a period of twelve weeks from the date of receipt of a copy of this order. Till final orders are passed, the present status-quo shall be maintained in the revenue records.

11. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

bkn

To

1. The Director,
Directorate of Survey & Settlement,
Puducherry.
2. Tasildar,
Taluk Office,
Puducherry.

+1cc to Mr.M.Gnanasekar, Advocate, S.R.No.38385

+1cc to Mr.K.Sasindran, Advocate, S.R.No.38486

+1cc to the Government Pleader (Puducherry), S.R.No. 39093

W.P. No.9830 of 2013

RSV(CO)
UMA(11/07/2022)