



W.P.No.26436 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.26436 of 2016

1.C.Rani (died)
2.K.Chinnasamy
3.C.Rajesh
4.Lavanya
(P2 to P4 substituted as Lrs of
deceased sole petitioner vide order
dated 27.09.2022 in WMP.NO.16902/2021)

.. Petitioners

Vs.

1.The District Collector,
Krishnagiri.

2.The District Revenue Officer,
Krishnagiri.

3.The Tahsildhar,
Hosur.

4.Beeramma (died)
5.Kembamma
6.Annaiyappa
7.Lakshmiamma
8.Nagaraj
9.Manjunath
10.Chitra
11.Prema



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12.Chandrika

.. Respondents

(R5 to 12 are impleaded vide order dated 24.09.2018 in WMP.No.22168 of 2016 by this Court)

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying of issuance of Writ of Certiorarified Mandamus Calling for the records of the 2nd respondent relating to his proceedings in Pa.Mu.No. 1193/2016/J2 dated 01.07.2016 quash the same and direct the 2nd respondent to grant Patta to in respect of the lands purchased by the petitioner under the Sale Deed dated 12.08.2009.

For Petitioners : Mr.N.Manoharan

For RR1 to 3 : Mr.U.Baranidharan

Additional Government Pleader

For RR4 to 12 : Mr.Ayyadurai, Senior Counsel
for Mr.R.Bharathkumar

ORDER

The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 01.07.2016 and quash the same and direct the 2nd respondent to grant Patta in respect of the lands purchased by the petitioner.

2. The case of the petitioner is that an extent of 4 acres 82 cents in S.F.Nos.503, 504 and 505 of Jujuwadi Village, Hosur Taluk, Krishnagiri



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District originally belonged to one Kempammal, who settled an extent of 2 acres 15 cents in S.F.No.503, 1 acre 12 cents in S.F.No.504 and 1 acre 55 cents in S.F.No.505 in favour of her grandson, viz, Ramaiah, son of Nanjappa under a registered Settlement Deed dated 18.02.1959.

3. It is the allegation of the petitioner that since an error had crept in the said Settlement Deed as the properties were stated to be situated in the southern side of the said survey numbers, taking advantage of the said error one Goppaliappa, brother of the said Nanjappa and his sons had attempted to interfere with the possession of Ramaiah. Hence, the said Ramaiah along with his mother had filed O.S.No.116/1977, on the file of the Additional District Munsif Court, Hosur, seeking a declaration of their title and permanent injunction and the defendants therein also claimed title by adverse possession, however the said Suit was decreed as prayed for in favour of the plaintiff. Challenging the said decree, the said Goppaliappa and his two sons had filed an appeal in A.S.No.33/1980, before the Sub Court, Krishnagiri and the said Court had modified the judgment by granting a declaration of title only in favour of Ramaiah by holding further



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that the said Ramaiah and the 1st wife of Nanjappa viz., Ramakkal will be entitled to half share each in the suit properties and the said judgment had become final. Pursuant to the same, the said Ramaiah filed a Suit in O.S.No.373/1981 seeking partition and separate possession of his half share against the said Goppaliappa and his two sons and the said Suit was decreed on 08.08.1984. Aggrieved by the same, the son of Goppaliappa and his wife had filed an appeal in A.S.No.36/1996 and the said appeal was dismissed. Thereafter the sons and wife of Goppaliappa have filed second appeal in S.A.No.1370/2001 before this Court and the said appeal was also dismissed, pursuant to which, the revenue records were mutated in the name of Ramaiah and Ramakkal on 08.07.2009.

4. After the disposal of the earlier appeal filed by the said Goppaliappa in A.S.No.33/1980, he settled the properties situated in S.F.Nos.503 and 505 under a registered Settlement Deed in favour of the 4th respondent. While such being the case, after the disposal of the second appeal in S.A.No.1370/2001, the legal heirs of Goppaliappa had filed I.A. seeking appointment of a commissioner to divide the properties and the



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Trial Court by an order dated 19.10.2010 had also appointed a Commissioner and the said order was challenged in Civil Revision Petition before this Court on the ground that the petitioners in the said I.A, who are the legal heirs of Goppaliappa, were not given any share as per the preliminary decree and thereafter, the said C.R.P., was also allowed and consequently the said I.A. was also closed. In the meantime, the said Ramaiah and Ramakkal had appointed their power agent under a registered Power of Attorney dated 06.08.2009 and the said power agents had sold the properties ad-measuring an extent of 1 acre 60 ½ cents in S.F.No.503, 1 acre 99 cents in S.F.No.504 and 1 acre 22 ½ cents in S.F.No.505 to the petitioner under a registered Sale Deed dated 12.08.2009, pursuant to which, revenue records were also mutated in favour of the petitioner. However challenging the mutation, the 4th respondent had filed W.P.No.39928 of 2015, seeking cancellation of the patta granted to the petitioner herein and the said writ petition was disposed by directing the 2nd respondent to dispose of the representation of the 4th respondent. Pursuant to the order, the 2nd respondent had conducted an enquiry and passed the impugned order dated 01.07.2016, and held on a wrong assumption that the



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Settlement Deed dated 18.02.1959, deals with only the southern half of the property and as such the petitioner's vendors are not entitled to the northern half and thereby overruled the findings of the Civil Court and cancelled the patta granted to the petitioner and directed the revenue records to be mutated in the name of the 4th respondent. Challenging the said impugned order, the present petition is filed by the petitioner.

5. Learned counsel for the 4th respondent submitted that as against the patta granted by the Tahsildar based on the alleged decree granted by the trial Court in her favour, the 4th respondent has filed a revision before the second respondent and the same was allowed. The learned counsel therefore, submitted that the issue between the parties is purely civil in nature and it has to be ventilated only before the competent civil Court and hence, this Court may grant liberty to the 4th respondent to work out his remedy in the manner known to law.

6. Learned counsel for the petitioners vehemently submitted that the petitioner has already been filed a suit for declaration and permanent



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injunction against the very same 4th respondent and the said suit was decreed in favour of the petitioner. Further, the 4th respondent made a claim for adverse portion and the same was rejected by civil Court and thereafter, the petitioner and her sister filed a partition suit and the same was decreed in favour of the petitioner. Both the civil Court decree had confirmed the petitioners right over property. Based on the decree, the Tahsildar granted patta in favour of the petitioner, which was set-aside by the DRO without appreciating the decree which was granted in the suit which was filed for the very same reason that there was some error in the settlement deed. That being the case, the order passed by the DRO, is wholly unsustainable.

7. Heard the learned counsel on either side and perused the materials available on record.

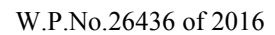
8. The sequence of facts that have been pointed out in the present *lis* between the parties is not disputed. It is borne out by record that as against the error in the boundaries mentioned in the settlement deed, the vendors of the petitioner had approached the civil Court and a decree had



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been granted in their favour. It is further evident from the record that on the basis of the decree, the revenue records were mutated by the Tahsildar in favour of the vendors of the petitioner.

9. It is the stand of the 4th respondent that as against the said mutation of revenue records by the Tahsildar, the 4th respondent had filed revision before the second respondent which resulted in the same being allowed in favour of the 4th respondent, however, it is not in dispute that the civil court had granted a decree in favour of the petitioner's vendor with regard to declaration of their title and permanent injunction and the same has withstood the legal test before the various higher judicial forums. That being the case, the second respondent cannot go beyond the orders passed by the Civil Court in the suit and mutate the revenue records as the second respondent is not clothed with any power to adjudicate the title dispute, which has already been adjudicated and a quietus has been given to the same. The act of the second respondent in passing the impugned order clearly reveals total non-application of mind to the materials available on record and the findings rendered by the second respondent are not only



the said order deserves to be interfered with.

07.11.2022

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WEB COPY

To

- 1.The District Collector,
Krishnagiri.
- 2.The District Revenue Officer,
Krishnagiri.
- 3.The Tahsildhar,
Hosur.



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M.DHANDAPANI,J.

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