



W.P.No.29673 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

**W.P.No.29673 of 2016
and W.M.P.No.25683 of 2016**

1.K.Ramadoss
2.K.Vasu

...Petitioners

Versus

1.The Revision Authority cum District Revenue Officer,
Tiruvallur.
2.The Revenue Divisional Officer,
Tiruvallur.
3.The Tahsildar,
Poonamalli,
Tiruvallur Taluk.
4.E.Stalin
5.E.Lenin

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records relating to proceedings in Rc.29845/2014/B3 dated 05.04.2016 on the file of the first respondent and quash the same,



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consequently, issue a direction to the third respondent to demarcate and fix boundaries of Survey No.12/6 of Sundarasoohavaram Village, Poonamallee Taluk.

For Petitioners : Mr.Krishna Ravindran
For Respondents – 1 to 3: Mr.U.Bharanidharan
Additional Government Pleader
For Respondents – 4 & 5: Mr.A.V.Arun

ORDER

The relief sought by the petitioners in this writ petition is to call for the entire records relating to proceedings in Rc.29845/2014/B3 dated 05.04.2016 on the file of the first respondent and quash the same and consequently, issue a direction to the third respondent to demarcate and fix boundaries of Survey No.12/6 of Sundarasoohavaram Village, Poonamallee Taluk.

2. The case of the petitioners is that they are brothers. The first petitioner and one Mr.P.Dasarathan jointly purchased the land in S.No.12/6 from one Mr.Kannaiah vide Sale Deed dated 26.05.1972 which was registered as Document No.3293 of 1972 on the file of Registrar Office, Madras. Subsequently, the said Dasarathan sold his share in the aforesaid



land to the second respondent vide Sale Deed dated 17.10.2011 which was registered as Document No.13063 of 2011 on the file of Sub Registrar Office, Kundrathur. Thereafter, the first petitioner and second petitioner became the joint owners of the said land and they obtained patta in respect of the said land in Patta No.7281. While so, one Mrs.Andalammal claimed title over the subject land stating that she purchased the said land from one Mr.Kuppusamy Naicker by way of an unregistered Sale Deed and also, obtained patta in her favour in Patta No.2. The said Andalammal bequeathed the subject land in favour of her grandson Mr.E.Stalin who is none other than the fourth respondent vide an unregistered Will dated 10.09.1997. The said Andalammal died on 20.02.2008. After her demise, the fourth respondent settled the said land in favour of his brother Mr.E.Lenin viz., fifth respondent vide Settlement Deed dated 11.05.2012 which was registered as Document No.6065 of 2012 on the file of Sub-Registrar Office, Kundrathur. But all these things were came to the knowledge of the petitioners only during the last week of January, 2013.

2.1. On verification of all title deeds, the petitioners understood that as on 17.04.1961, the owner of the subject land was one Kandasamy Nadar.



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The said Kandasamy Nadar had purchased the subject land from one Kuppu Nayakar on 06.09.1957 vide Document No.1998/1957. On verification of a copy of the Patta Extract bearing No.2 issued in favour of said Andalammal and obtained by the petitioners reflected only two Survey Numbers viz., 12/2 & 12/5 measuring to a total extent of 0.66 Ares. However, the manual copy of the Patta Extract produced by the respondents 3 & 4 reflects additional Survey Nos.12/1 and 12/6 apart from the Survey Numbers 12/2 & 12/5. This itself clearly shows that some alternations has been made in the patta produced by respondents 3 & 4. Therefore, on 28.02.2013, the petitioners lodged a police complaint against the respondents 3 & 4 for the forgery committed by them. On the basis of their complaint, the Inspector of Police, Thiruverkadu Police Station registered FIR in Crime No.363 of 2013. Subsequently, the said case was transferred to C.C.B Land Grabbing Cell. After the completion of investigation, charge sheet has been filed by the Land Grabbing Court – II, Tiruvallur and the same was taken on file in C.C.No.1 of 2016.

2.2. On 23.02.2010, the petitioners submitted an application under Section 10 of the Tamil Nadu Survey and Boundaries Act, 1923 (hereinafter



referred to as 'Act') before the third respondent, requesting to measure and mark boundaries in their property, however, there was no response for their application. Though the petitioners sent a reminder to the third respondent on 12.08.2010 in this regard, even thereafter, no action was taken by the third respondent. Hence, the petitioners filed a writ petition in W.P.No.26643 of 2011 before this Court and the same was disposed of on 11.06.2012. The operative portion of the order passed by this Court in W.P.No.26643 of 2011 is as follows:

“11. In view of the fact that the respondents 4 and 5 claiming to be owners in possession and opposing the application moved by the petitioner, it will be appropriate at this stage to dispose of this writ petition by directing the second respondent to take decision on the application moved by the petitioner under Section 10 of the Act and pass detailed speaking order by following due process of law i.e., by giving opportunity to the parties interested.

12. The said exercise be carried out within two months of the date of receipt of certified copy of this order.”

2.3. Pursuant to the above direction of this Court, the third respondent conducted a detailed enquiry and passed an order vide proceedings in Rc.3131/2012/B2 dated 02.11.2012 concluding that the



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petitioners are the real owners of the subject land. As against the order passed by the third respondent, respondents 4 & 5 preferred an appeal before the second respondent and the same came to be dismissed on 28.09.2015. Therefore, respondents 4 & 5 have preferred a revision before the first respondent. The first respondent vide proceedings in Rc.No.29845/2014/B3 dated 05.04.2016 cancelled the orders passed by the respondents 2 & 3. Aggrieved over the same, the petitioners have filed the present writ petition before this Court.

3. The learned counsel for the petitioners submitted that the actual owner of the subject land was Kandasamy Nadar and not Kuppusamy Naicker. Moreover, the manual Patta No.2 is a bogus document because the respondents 4 & 5 have fraudulently inserted the Survey Nos.12/1 and 12/6 in it. During the enquiry, the petitioners requested the first respondent to call for the records regarding Patta No.2 of computerized as well as manual, however, the first respondent did not consider their request.

3.1. The learned counsel further submitted that the petitioners made an application before the third respondent, for measuring their property and



marking boundaries in it, however, their application was not considered.

Hence, they filed a writ petition in W.P.No.26643 of 2011 before this Court and the said writ petition was disposed of by this Court with a direction to the second respondent therein to consider the petitioners' application and pass a detailed speaking order, after affording an opportunity to the interested parties.

3.2. Subsequent to the aforesaid order of this Court, the third respondent vide proceedings in Rc.3131/2012/B2 dated 02.11.2012 declared that the petitioners as real owners of the subject land, challenging the same, the respondents 4 & 5 filed a suit in O.S.No.137 of 2013 before the District Munsif Court, Poonamallee claiming title over the subject land. On the other hand, the petitioners filed a suit in O.S.No.111 of 2016 before the District Munsif Court, Poonamallee for declaration of title over the subject land and permanent injunction against the respondents 4 & 5. However, both the aforesaid suits are pending adjudication. Without considering all these things, the first respondent has cancelled the well considered orders passed by the respondents 2 & 3. Therefore, the order passed by the first respondent is liable to be quashed.



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3.3. The learned counsel for the petitioners also submitted that the first petitioner has preferred an appeal before the Deputy Inspector General of Registration, Chennai Division on 05.05.2021 seeking to cancel the Document No.6065 of 2012 dated 11.05.2012 on the file of Sub-Registrar Office, Kundrathur and to initiate criminal action against one Mr.S.Manoharan, Sub Registrar who executed the registration of said document. The Deputy Inspector General of Registration, Chennai Division vide proceedings in Na.Ka.No.2202/Aa1/2021 dated 02.09.2022, held that

(i) As per Section 49 and Section 50 of the Registration Act, 1908 and also, as per Circular No.18339/C1/2012 dated 25.04.2012 issued by the Inspector General of Registration, the Document No.6065 of 2012 dated 11.05.2012 is declared as a fraudulent document.

(ii) Since the said Manoharan, Sub Registrar got retirement on 30.04.2019 and Document No.6065 of 2012 was registered in the year 2012 and now, more than four years have been gone, no criminal action can be taken against the said Sub Registrar under Section 83 of the Registration Act, 1908 departmentally. As against the order passed by the Deputy



Inspector General of Registration, Chennai Division, the fourth respondent has filed a writ petition in W.P.No.28334 of 2022 before this Court, in which, the first petitioner is a third respondent.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 contended that the third respondent herein (Tahsildar) has no jurisdiction to conduct an enquiry with regard to the title of the subject property and it is only Surveyor appointed under Section 4 of the Act has the power to measure and determine the boundaries of the property. Even this Court itself has clearly stated in paragraph No.9 of its order in W.P.No.26643 of 2011 dated 11.06.2012 that exercising of power under Section 10 of the Act cannot be regulated by the first respondent therein (Tahsildar) and the same has to be carried out only by the second respondent therein (Surveyor).

4.1. While so, the third respondent herein (Tahsildar) without conducting any enquiry and affording any opportunity to the respondents 4 & 5, passed an order holding that the petitioners are the owners of the subject land and the respondents 4 & 5 lack documentary evidence



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regarding the acquisition of the subject land. The direction issued by this Court in W.P.No.26643 of 2011 dated 11.06.2012 is for the Surveyor/second respondent therein, but, the order passed by the Tahsildar/first respondent is without jurisdiction. Hence, challenging the order passed by the third respondent, the respondents 4 & 5 preferred appeal before the second respondent, however, the same was dismissed. Aggrieved over the dismissal of appeal, the respondents 4 & 5 filed a revision before the first respondent herein.

4.2. The first respondent has clearly stated in the proceedings which is impugned herein that Patta No.9 produced by the petitioners is a bogus document which was not issued by the third respondent herein (Tahsildar) and the issue raised by the parties has to be decided only by the competent Civil Court. The first respondent has rightly cancelled the orders passed by the respondents 2 & 3. Therefore, this writ petition is liable to be dismissed since the petitioners' case deserves no merits of consideration.

4.3. The learned Additional Government Pleader appearing for the respondents also brought to the knowledge of this Court that the suit filed



by the petitioners in O.S.No.111 of 2016 before the District Munsif Court, Poonamallee was disposed of on 13.10.2017 and the suit filed by the respondents 4 & 5 in O.S.No.137 of 2013 is only pending before the District Munsif Court, Poonamallee.

5. Heard the learned counsel on either side and perused the materials placed before this Court.

6. Admittedly, the petitioners made an application before the third respondent, requesting to measure and mark boundaries in their property, but the same was not considered. Therefore, they filed a writ petition in W.P.No.26643 of 2011 before this Court and the said writ petition was disposed of by this Court on 11.06.2012 with a direction to the second respondent therein to consider the petitioners' application and pass a detailed speaking order within a period of two months from the date of receipt of a copy of that order, after affording an opportunity to the interested parties. Pursuant to the aforesaid order of this Court, the third respondent vide proceedings in Rc.3131/2012/B2 dated 02.11.2012 declared that the petitioners are real owners of the subject land. Aggrieved



over the order passed by the third respondent, the respondents 4 & 5 preferred an appeal before the second respondent. However, the second respondent has dismissed the said appeal and confirmed the order of the third respondent. After the dismissal of appeal, the respondents 4 & 5 preferred a revision before the first respondent. The first respondent vide proceedings in Rc.No.29845/2014/B3 dated 05.04.2016 cancelled the orders passed by the respondents 2 & 3.

7. The fact remains is that the issue involved in the case on hand is a property dispute between the petitioner and respondents 4 & 5 and therefore, the same has to be decided by the competent Civil Court. Further, a civil suit filed by the respondents 4 & 5 in O.S.No.137 of 2013 is also pending on the file of District Munsif Court, Poonamallee.

8. In the aforesaid circumstances, rendering any opinion on the merits of the case will adversely affect the interest of petitioners as well as respondents 4 & 5. Hence, this Court issues the following directions:

(i) The Revenue Officials are directed to restore the Revenue Records prior to the proceedings issued by the first respondent in Rc.29845/2014/B3



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dated 05.04.2016.

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(ii) The learned District Munsif, Poonamallee is directed to decide the suit O.S.No.137 of 2013, without being influenced by any of the order passed by the Revenue Officials including Deputy Inspector General of Registration, Chennai Division, as expeditiously as possible.

(iii) Liberty is granted to the succeeding party to make a fresh application for mutation of Revenue Records.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order (or) Non-Speaking Order



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M.DHANDAPANI, J.

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Copy to

- 1.The Revision Authority cum District Revenue Officer,
Tiruvallur.
- 2.The Revenue Divisional Officer,
Tiruvallur.
- 3.The Tahsildar,
Poonamalli,
Tiruvallur Taluk.

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