



W.P.No.32635 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.32635 of 2016

and

W.M.P.No.28273 of 2016

M.Selvaraj

...Petitioner

Vs.

1. The District Collector,
Erode, Erode District.
2. The Revenue Divisional Officer,
R.D.O. Office, Erode.
3. The Tahsildar,
Perunthurai Taluk,
Perunthurai, Erode District.
- 4 V.N.Duraisamy

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with 2nd respondent's order dt. 12.08.2016 in Mu.Mu.2114/2006/Aa1 and quash the same and direct the 2nd respondent to cancel the patta granted to the 4th respondent for the lands in (Old



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S.No.641/17) New R.S.No.641/3, V.Vellode Village, Perunthurai Taluk, Erode District and to evict him from the said lands.

For Petitioner : Mr.R.Srinivas

For Respondents : Mr.R.Vigneswaran, GA, for R1 to 3
: Mr.I.C.Vasudevan, for R4

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in respect of the order dated 12.08.2016 in Mu.Mu.2114/2006/ Aa1, quash the same and to consequently, direct the 2nd respondent to cancel the patta granted to the 4th respondent in respect of the subject land.

2. The case of the petitioner is that he claims to be the resident of the Vadamugam Vellode Village and it is the claim of the petitioner that the land comprised in R.S.No.641/3 situated in the above said village belongs to the temple, however, the 4th respondent had taken possession of the said vacant land classified as Natham and built a shed therein. Thereafter, on enquiry, the petitioner came to know that the HSD patta in respect of the subject property was issued in favour of one Thayammal on 27.02.1997 and



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subsequently, the 4th respondent under the guise of purchasing the property, has illegally obtained patta for the same in his favour by making fraudulent misrepresentations. Aggrieved by the same, the petitioner made a complaint dated 30.08.2006 before the respondents 1 to 3. While so, based on the letters and applications made by the 4th respondent, the 2nd respondent has issued notices to the petitioner and the private respondent, conducted enquiry and passed the present order under challenge, vide proceedings dated 12.08.2016 in Mu.Mu.2114/2006/Aa1, directing the petitioner to approach the competent civil court for declaration of the genuineness of the alleged sale deed dated 21.02.2000 executed by the said Thayammal in favour of the 4th respondent. Challenging the same, the present Writ petition is filed.

3. Learned counsel for the petitioner fairly submitted that, the petitioner is not claiming any right over the subject property and the only grievance of the petitioner is that, the subject land belongs to the temple and the people of the said village are using the same for religious purposes. While so, the 4th respondent has fraudulently obtained patta in respect of the subject land in his favour and has encroached the same and the revenue



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officials, without any authority and without verifying any of the above said facts, have issued patta in favour of the 4th respondent. Hence, he prayed for appropriate orders.

4. Learned Government Advocate appearing for the official respondents submitted that a HSD Patta in Old S.No.641/3(Part) of Natham of Vadamugam Village to an extent of 0.03 acres (3 cents) was issued to the said Thayammal on 26.03.1981 in HSD Serial No.477 of 1390 Falsi year. Thereafter, during the year 1997, at the time of implementation of issuing pattas under the Natham Land Revenue Scheme, a Patta bearing Sl.No.Ma. Pa.No.27/97, by assigning a New S.No.641/17 to an extent of 114 Sq. metres had also been issued to the said Thayammal by the Erstwhile Special Tahsildar, Kangeyam on 27.02.1997 for the same land and the patta bears Patta No.491/2000. While so, a complaint was given by the petitioner to the erstwhile Revenue Tahsildar, Perundurai, during the year 2002, mentioning that the above patta initially issued by the Tahsildar, Perundurai itself was a bogus one, is not acceptable, in view of the belated submission of the complaint after a lapse of 21 years. Further, the said Thayammal executed a sale deed registered as Doc.No.491/2000 dated 21.02.2000 in respect of the subject property in favour of the 4th respondent and subsequently, the

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erstwhile Zonal Deputy Tahsildar, Perundurai had transferred the patta in the name of the 4th respondent in his proceedings Ni.Mu.M.T.R.453/1414 dated 26.11.2004, after careful scrutiny of the relevant documents. While such being the case, the petitioner has raised the issue to the erstwhile Revenue Divisional Officer, Erode, who in turn sent a communication to the petitioner to appear for enquiry before the 2nd respondent, and after conducting enquiry and after perusal of the counter petitions filed, directed the petitioner to approach the competent civil court to seek declaration of the genuineness of the above said sale deed dated 21.02.2000, which cannot be found fault with. Hence, he prayed for dismissal of this Writ petition.

5. Learned counsel for the 4th respondent submitted that the subject land is a patta land and patta in respect of the same was initially granted in favour of the said Thayammal as early as on 26.03.1981, vide Patta No.477 by recognizing her possession and enjoyment of the said land and subsequently, natham patta was issued in Patta No.27/1997 by the Natham Tahsildar to the said Thayammal. While so, one Rukkumani, who is none other than the petitioner's aunt, filed a suit for declaration of her title and for recovery of possession of the subject land against the 4th respondent in



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O.S.No.123/1996 on the file of the District Munsif cum Judicial Magistrate

Court, Perundurai, and the same was dismissed on 12.01.1996, confirming

that the land belonged to the said Thayammal and since the said Rukkmani has not challenged the said Judgment and decree dated 12.01.1996, the same has become final. Thereafter, the 4th respondent has purchased the said land from the said Thayammal for a valuable sale consideration on 21.02.2000 and subsequently, the patta in respect of the said land was also transferred in the name of the 4th respondent, vide proceedings of the 3rd respondent in Ni.Mu.M.D.R.453/1414 dated 26.11.2004, and he paid the property tax without any default up to 2015 and subsequently, the panchayat has refused to receive the same, due to the present Writ petition. While such being the case, at the instigation of the petitioner, one Rajan, priest of the temple located adjacent to the subject land lodged a criminal complaint against the 4th respondent, however, after trial, the 4th respondent was acquitted from all the charges by the District Munsif cum Judicial Magistrate, Perundurai, vide judgment dated 08.04.2004 made in C.C.No.27/2002, in which the petitioner was also arrayed as a witness. Further, solely in order to wreck vengeance, the said Rukkumani by



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colluding with the petitioner, made a petition before the 3rd respondent to cancel the patta issued in favour of the 4th respondent, however, the same was dismissed by the 3rd respondent, vide proceedings in Mu.Mu.3880/2002/A6 dated 05.11.2002 stating that the patta was issued to the said Thayammal as early as in the year 1981 and subsequently on 27.02.1997 and hence filing a petition, after a lapse of 21 years is not sustainable. Further, it is pertinent to note that, being not satisfied with the any of the above said facts, the petitioner has also sent a mere representation to the respondents 1 to 3, which cannot be termed as an appeal, however, the same was also dismissed by the 2nd respondent, vide the present order under challenge, directing the petitioner to approach the civil court. Hence, he prayed for dismissal of this Writ petition.

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

7. Admittedly, the petitioner did not claim ownership over the subject land, however, his main allegation is that the subject land belongs to the temple and the same was encroached by the 4th respondent and has illegally



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obtained patta in his favour in respect of the subject land and the revenue officials have also issued patta to the 4th respondent without verifying the facts. However, the 4th respondent claims that already the said Rukkumani, aunt of the petitioner filed a suit in respect of the very same issue in O.S.No.123/1996 on the file of the District Munsif cum Judicial Magistrate Court, Perundurai, and the same was dismissed on 12.01.1996, confirming that the land belonged to the said Thayammal and the same has become final.

8. It is pertinent to note that, the concluded proceedings cannot be adjudicated by the revenue officials as they are not the competent authority to decide upon the issue. Further, the petitioner has not produced any proof to substantiate his claim and in the absence of any material to show that the subject land belongs to the temple, this Court finds no fault with the order impugned in this Writ petition and same cannot be interfered with. However, if at all the petitioner has any grievance, liberty is granted to the petitioner to workout the remedy in the manner known to law.

9. For the reasons aforesaid, this Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.



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Speaking Order : Yes/ No

Index : Yes/ No

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