



W.P.No.3998 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.3998 of 2016

and

W.M.P.Nos.13812 & 3322 of 2016

1. M.Venkatachalam,
2. Ramar . . . Petitioners

Vs.

1. The District Collector,
District Collector's Office,
Perambalur,
Perambalur District.
2. The District Revenue Officer,
District Collector's Office,
Perambalur,
Perambalur District.
3. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
4. The Tahsildar,
Perambalur Taluk,
Perambalur District.



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5. The Deputy Tahsildar,
Perambalur Taluk,
Perambalur District.

6. Chellam,

7. Daiveekam,

8. Amutha,

9. Sumathi,

10. Nallakannu,

11. Prabakaran,

12. Pradeep,

13. Priya,

14. Sub-Registrar

. . . Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari or any other appropriate order or direction in the nature of a writ calling for the proceedings of the 2nd respondent in Na.Ka.A2/20767/2012 dated 22.12.2015 quash the same.

For Petitioners : Mr.P.N.George Graham for
M/s. Devadason & Sagar.

For Respondents : Mr.Yogesh Kannajdasan,
Special Government Pleader for R1 to R5, 14

: M/s. M. Baskaran for R6 to R13



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ORDER

The present petition has been filed seeking to quash the proceedings dated 22.12.2015 passed by the 2nd respondent.

2. It is the case of the petitioners that the petitioners' father had purchased the subject property from one Thangammal, wife of late Rengasamy, their daughter in law and the 6th respondent, vide the sale deed dated 09.03.2006 and revenue records were mutated in favour of the petitioners' father. Since the date of purchase, the petitioner's father was in possession and enjoyment of the said property. After the demise of their father, the petitioners are in possession and enjoyment of the said property. While being so, said Thangammal and the 6th Respondent filed a suit in O.S.No.40 of 2008 seeking declaration of the sale deed dated 09.03.2006, however, the said suit was dismissed for default, in which, exparte decree came to be passed, against which, the petitioner filed an application to set aside the decree passed in O.S.No.40 of 2008 and the said application was allowed with a conditional order and the suit was restored. Challenging the



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same, the 6th respondent had preferred C.R.P (PD) No.1592 of 2012 before this Court and the same is pending. While being so, based on the petition filed by said Thangammal, the 5th respondent passed an order dated 09.01.2012 , pursuant to which, several appeals came to be filed before the various authorities and finally ended up in the impugned proceedings dated 22.12.2015 passed by the 2nd respondent directing to issue patta in favour of the Respondents 6 to 13. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioners submitted that while the suit in O.S.No.40 of 2008 is pending before the Civil Court, the Revenue Authorities have no jurisdiction to decide the issue as it relates to the title to the property. In view of the same, the order impugned in this Writ Petition needs interference of this Court and the said order is liable to be set aside.

4. On the above contentions, this Court heard the learned counsel appearing for the respondents and perused the materials available on record.



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5. It is borne out by the record that the *exparte* decree, which was passed against the petitioners, has since been set aside in the application filed by the petitioners on certain conditions. It is also not disputed by either parties that against the said conditional order CRP (PD) No.1592/2012 has been filed by the 6th Respondent, which is pending before this Court. It is not the case of the 6th Respondent that any interim order has been passed in the said revision. Such being the case, the suit is still pending consideration before the competent civil court. Therefore, in the backdrop of the above, the said suit is still pending consideration, the 5th respondent has no authority to pass any order in favour of the said Thangammal as it is only the civil court which is competent to decide the title and the revenue authorities have no authority to decide the issue relating to title to the property. Further, the appeals filed against the said order having been dismissed by the 2nd respondent, equally the order of the 2nd Respondent confirming the order of the 5th respondent is *per se* bad and not sustainable. Therefore, this Court has no hesitation to hold that the impugned order is arbitrary and illegal and, definitely warrants interference at the hands of this Court. Hence, the order impugned in this Writ Petition is set aside.



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However, liberty is granted to the petitioners to approach the revenue authorities for issuance of patta subject to the result of the suit. No Costs.

Consequently, the connected Miscellaneous Petitions are closed.

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NHS

Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.



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