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W.A.No.3407 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.No.3407 of 2019 and
C.M.P. No.21930 of 2019

S.Ramalingam

... Appellant

vs

1.The District Revenue Officer,
O/o.The District Revenue Officer,
Villupuram District,
Villupuram.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Kallakurichi Town and Taluk,
Villupuram District.

3.The Tahsildar,
O/o.the Tahsildar,
Kallakurichi Taluk,
Villupuram District.

4.B.Azhagiri Raja

5.B.Selvarangaraj

6.S.Nagalakshmi

7.S.Babuji

8.S.Bhuvaneswari

... Respondents



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Prayer: Writ Appeal filed under clause 15 of the Letters Patent Act against the order dated 17.05.2019 passed in W.P. No.14385 of 2019.

For Appellant : Mr.N.Manokaran
for Mr.G.Balamanikandan

For Respondents : Mr.V.Manoharan,
Additional Government Pleader
for R1 to 3

Mrs.R.Dakshayanireddy for
Mr.P.Rajavel for R4

No appearance for R5 to 8

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This writ appeal has been filed challenging the order dated 17.05.2019 passed in W.P. No.14385 of 2019, wherein the learned Single Judge, while disposing of the above writ petition, has observed that since the matter was purely a civil dispute between the appellant and respondents 4 to 8, the appellant has to approach the Civil Court for necessary relief. Aggrieved by the same, the appellant is before this Court.

2.Learned counsel appearing for the appellant submitted that the appellant had purchased lands to an extent of 42 cents, comprised in Survey Nos.324/5A (25 cents) and 324/6 (17 cents), situated at Puthu Uchimedu Village, Kallakurichi Taluk from respondents 5 to 8



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herein by way of a Sale Deed dated 19.07.2006, registered at the office of the Sub Registrar, Thagalur, Villupuram District. At the time of purchase, the appellant had duly verified the registration records by applying encumbrance certificates at the Sub Registrar Office concerned and also verified the revenue records viz. Patta, which stands in the name of the sixth respondent. Subsequent to the said purchase, a patta also has been transferred into the appellant's name in Joint Patta. Thereafter, he has been in possession and enjoyment over the said property, by constructing two houses in the said land and doing cultivation in the remaining lands. While so, the fourth respondent, who is the brother of the fifth respondent, made a representation dated 22.12.2014 to the second respondent for cancellation of patta, which stands in the name of the appellant by claiming that he is the only legal heir/son to his father and he is an absolute owner of the above said properties. Learned counsel for the appellant further submitted that in the course of enquiry, the sixth respondent, colluding with her brother in law viz., the fourth respondent, deposed that they sold the land to the appellant for the loan borrowed by them. Neither the fourth respondent nor the sixth respondent denied the execution of the above Sale Deed and the enquiry has not been challenged by anyone in the competent Civil Court. Prior to the purchase, respondents 4 to 8 jointly sold part of the



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above said property to one Nadesa Padaiyatchi by registered Sale Deed dated 03.10.1996. Since the fifth respondent had not repaid the loan amount to one Ponnusamy, he filed a suit for recovery of money and also for attachment of property. In such circumstances, without considering the legal aspects, the second respondent, by impugned proceedings dated 24.04.2018, has cancelled the patta stands in the appellant's name. Aggrieved by the same, the appellant made an appeal before the first respondent. Without considering the title of the properties, the first respondent, by Proceedings dated 10.04.2019, had confirmed the order passed by the second respondent, directing the appellant to approach the competent Civil Court for appropriate relief.

3.Learned counsel for the appellant further submitted that when the sale deed stands in the name of the appellant and the same was not challenged by anyone from the date of his purchase and the appellant has been in possession and enjoyment over the properties by paying necessary tax to the concerned departments, instead of directing the fourth respondent to approach the Civil Court for establishing his title over the property, the direction issued by the first respondent to the appellant to approach the Civil Court is against law. Therefore, the appellant has filed the above writ petition before this



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Court. But the learned Single Judge, without considering the fact that the patta and sale deed stand in the name of the appellant, who is in possession and enjoyment over the property in dispute, has disposed of the above writ petition, observing that since the matter was purely a civil dispute between the appellant and respondents 4 to 8, the appellant has to approach the Civil Court for necessary relief. Therefore, the appellant is before this Court challenging the said order passed in the above writ petition. Learned counsel for the appellant further submitted that when the encumbrance certificate clearly shows that the fifth respondent is an absolute owner of the property and there was no encumbrance whatsoever over the property in dispute and the appellant is a bonafide purchaser, who became an absolute owner of the property in dispute, the learned Single Judge ought to have considered these vital aspects. Therefore, learned counsel for the appellant prays for allowing the appeal.

4.By filing a counter affidavit dated 21.07.2022, learned counsel for the fourth respondent submitted that the fourth respondent is the absolute owner of the property, covered in Survey Nos.324/5 and 324/6, situated at Pudhuchimedu Village, Kallakurichi Taluk and the said property originally belonged to one Dhanalakshmi vide Sale Deed dated 07.12.1978, registered with the Sub Registrar, Nagalur. Learned



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counsel for the fourth respondent further submitted that the fourth respondent is the adopted son of Balamuruga Raja and Dhanalakshmi and one Rangaraja, who is none other than the brother of Balamuruga Raja, is the biological father of the fourth respondent. While so, the adopted father and mother passed away on 24.02.1987 and 11.12.1988 respectively, leaving behind them the fourth respondent as only legal heir. Learned counsel for the fourth respondent further submitted that they had no issues and the legal heir ship certificate dated 17.11.2014 issued by the competent authority reflects that the fourth respondent is the sole legal heir and during the lifetime of the fourth respondent's adopted mother Dhanalakshmi, she executed a Sale Deed in the year 1978 in favour of one Ponnammal to an extent of 10 cents. Subsequently, the fourth respondent sold an extent of 60 cents of land in the year 1996 and respondents 5 to 8 have also joined in the execution of the Sale Deed since the purchaser insisted upon the same. Learned counsel for the fourth respondent further submitted that when the fourth respondent was working in Bangalore, the appellant has got a Sale Deed dated 19.07.2006 for an extent of 25 cents from respondents 5 to 8. After coming to know that the patta was transferred in the name of the appellant, the fourth respondent filed an appeal before the Revenue Divisional Officer, the second respondent herein, who had vide detailed order dated 24.04.2018,



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allowed the appeal, cancelling the patta issued in the name of the appellant and as against the order of the second respondent, the appellant filed an appeal before the first respondent, who also took into account the inspection reports of the Deputy Tahsildar, the Revenue Inspector and the Village Administrative Officer and the legal heirship certificate issued by the competent authority, showing the fourth respondent as the sole legal heir, dismissed the above appeal by order dated 10.04.2019. Challenging the said order, the appellant has filed the above writ petition. Since respondents 5 to 8 have no right or title in the said property to execute any sale deed, which itself states that the fourth respondent is the owner of the property, the learned Single Judge has rightly dismissed the above writ petition filed by the appellant.

5.Heard the parties on both sides.

6.It could be seen from records that an enquiry was conducted wherein, one Nagalakshmi, W/o.Selvarangaraju submitted that her husband had borrowed a sum of Rs.1,00,000/- from one Ramalingam, the appellant herein and due to loss sustained by her husband, they moved to Trichy and during that time, the appellant herein had harassed their younger son Babuji and took the property. Thereafter,



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they have asked Ramalingam to return the property assuring him that they will repay the amount, but he has not come forward to execute deed to return the property. Thereafter, during enquiry at the office of the Superintendent of Police, the appellant said that Mrs.Dhanalakshmi Ammal had executed a Will in his favour and that she had purchased a property measuring to the extent of 0.91 and 0.17 cents from one Munusamy and as she had no child, she brought up one Selvarangaraja, son of her husband's elder brother and in the meantime, Dhanalakshmi died on 12.05.1987. The letter of the Revenue Tahsildar, Kallakurichi states that 'A' register patta, bearing No.747, covered in S.Nos.324/5A and 6, situated at Kongarayapalayam Village stands in the name of Dhanalakshmi, W/o. Balaguruvaraja and while giving the survey field, the patta was wrongly registered in the name of Nagalakshmi, W/o. Selvarangaraja, elder brother of Azhagiriraja, the fourth respondent herein. But the said survey field belongs to Dhanalakshmi and Balaguruvaraja and the said field was purchased by Dhanalakshmi and she was in possession and enjoyment of the property and they have adopted one Azhagiriraja, S/o. Rangaraja. As per the adoption records, Azhagiriraja is the only heir to them and therefore, the above survey numbers belong to Azhagiriraja and on account of wrong transfer of patta, one Ramalingam had purchased the same from Nagalakshmi and



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Selvarangaraja through Sale Deed and got transfer of patta in his name on 25.09.2009. As per the legal heirship certificate belonged to Azhagiriraja, his brother and his wife have wrongly sold the same since it has been executed in the absence of the owner of the property, namely, the fourth respondent.

7.As per the recommendation of the Tahsildar, Kallakurichi and as per the legal heirship certificate proceedings dated 17.11.2014, Azhagiriraja is the only legal heir to one Dhanalakshmi and therefore, the Revenue Divisional Officer, Villupuram cancelled the patta in favour of the appellant and ordered to give separate patta in the name of Azhagiriraja. Further it could be seen that when the appellant, who took a stand that the sixth respondent is the owner of the property by virtue of a Will dated 11.12.1988 executed by Dhanalakshmi, adopted mother of the fourth respondent, has taken a contrary stand that the sixth respondent got the property from the adopted mother of the fourth respondent by virtue of an oral gift deed, disbelieving the statement made by the appellant, the Trial Court has rightly dismissed the Execution Petition filed by the appellant and the same was confirmed by the Appellate Court. Therefore, the learned Single Judge, while disposing of the above writ petition, has observed that since the matter was purely a civil dispute between the appellant and



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**T.RAJA,J.
AND
K.KUMARESH BABU,J.**

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respondents 4 to 8, the appellant has to approach the Civil Court for necessary relief, which in our considered opinion cannot be found fault with. Accordingly, this writ appeal is dismissed. Consequently, connected C.M.P. stands closed.

8.Needless to mention that the appellant has to approach the Civil Court for getting the title and ownership of the land in question.
No costs.

[T.R.,J.] [K.B.,J.]
02.09.2022

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To

- 1.The District Revenue Officer,
O/o.The District Revenue Officer,
Villupuram District,
Villupuram.
- 2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Kallakurichi Town and Taluk,
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