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W.A.Nos.2293 of 2022, 1632 & 1754 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A.Nos.2293 of 2022, 1632 & 1754 of 2021

V.Perumal

.. Appellant in all the W.As

v.

1. The District Revenue Officer
Kanchipuram District

2. The Revenue Divisional Officer
Chengalpet
Kanchipuram District

3. The Tahsildar
Taluk Office
Thiruporur
Kanchipuram District

.. Respondents 1 to 3 in all the W.As

4. Nazeem Sharif
W/o Nusrath Shariff

.. 4th Respondent in WA 2293/22 &
8th Respondent in WA 1632 &
1754/21



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5. The Director of Town & Country Planning
Chengleput .. 4th Respondent in WA 1632 & 1754/21
6. Mamallapuram Local Planning Authority
Mamallapuram .. 5th Respondent in WA 1632 & 1754/21
7. The Block Development Officer
Tirupporur .. 6th Respondent in WA 1632 & 1754/21
8. The Sub Registrar
Tirupporur .. 7th Respondent in WA 1632 & 1754/21
9. M/s Isha Homes (India) Pvt.Ltd., rep.by its
Authorised Signatory
Mr.N.Anbu Mani
Old No.55, New No.74,
1st Avenue, Indira Nagar
Adyar, Chennai 600 020 .. 9th Respondent in WA 1632 & 1754/21

W.A.No.2293 of 2022 is filed under Clause 15 of the Letters Patent, against the order dated 19.08.2021 passed in W.P.No.30597 of 2019.

W.A.No.1632 of 2021 is filed under Clause 15 of the Letters Patent, against the order dated 25.02.2020 passed in Review Application No.228 of 2019 in W.P.No.7745 of 2019.

W.A.No.1754 of 2021 is filed under Clause 15 of the Letters Patent, against the order dated 19.08.2019 passed in W.P.No.7745 of 2019.



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For Appellant :: Mrs.G.Thilakavathi
Senior Counsel for
Mr.D.Kanagasundaram

For Respondents :: Mr.P.Muthukumar
State Government Pleader for
R1 to R3 in WA 2293/22, 1632 &
1754/21 and for R4 to R7 in
WA 1632 & 1754/21

Mr.K.Ravi Anantha Padmanabhan
for Mr.K.S.Karthik Raja for R4 in
WA 2293/22 & for R8 in WA 1632
& 1754/21

Mr.S.Rajasekar for R9 in
WA 1632 & 1754/21

JUDGMENT

(Judgment of the Court was made by the Hon'ble Acting Chief Justice)

The unsuccessful writ petitioner has filed these appeals. Writ Appeal No.2293 of 2022 is directed against the impugned order dated 19.08.2021 passed in Writ Petition No.30597 of 2019; Writ Appeal No.1632 of 2021 is directed against the impugned order dated 25.02.2020 passed in Review Application No.228 of 2019 in Writ Petition No.7745 of 2019 and Writ Appeal No.1754 of 2021 is directed against the impugned order dated



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19.08.2019 passed in Writ Petition No.7745 of 2019. Since the issue raised is common in all the writ appeals, they are taken up together and disposed of by this common order.

2. The issue relates to the claim of title and ownership of the land comprised in Survey No.65/8A in Pudupakkam Village, Tiruporur Taluk, Kancheepuram District between the appellant/writ petitioner and the contesting fourth respondent in W.A.No.2293 of 2022. It is the case of the appellant that the land measuring an extent of 29 cents in Survey No.65/8, Pudupakkam Village, Thiruporur Taluk, Kancheepuram District was originally owned by his grandfather, K.Mari. After the survey and settlement of land by the Government in 1961, a joint patta bearing No.94 was issued in the name of his grandfather K.Mari and another person Ayyavoo as per the settlement register. After the death of Ayyavoo, his legal representatives along with K.Mari and his son Vendavarasi as well as the appellant, who was a minor, had sold the land measuring about 12 cents by a registered sale deed dated 27.07.1971 bearing Document No.849 of 1971 on the file of the



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Sub~Registrar, Thiruporur. Thereafter, by proceedings dated 25.01.1973 bearing No.84/2025/1382, the authorities sub-divided the patta land, by which the land situated on the northern side for an extent of 16 cents was assigned Survey No.65/8A in the name of K.Mari and the land measuring 12 cents on the southern side which was sold was subdivided as Survey No.65/8B. But the appellant claims that an error occurred in the patta with respect to the land in Survey No.65/8A measuring 16 cents and based on his representation, the correction was made. He however stated that the land in Survey No.65/8A was brought into the fold of the fourth respondent and was taken up for joint development by the fourth respondent along with M/s Isha Homes (India) Private Limited, the ninth respondent in W.A.Nos.1632 & 1754 of 2021 by showing the same as Open Space Reservation in the planning permission and gifted to the authorities towards laying of road and park and the remainder portion of the land along with the larger extent had been developed and Deeds of Conveyance have been executed to various third parties.



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3. Per contra, it is the counter claim of the contesting fourth respondent that she is the absolute owner of the total extent of 8.61 acres of land in Survey Nos.64/10B, 64/12, 64/13, 65/1, 65/2, 65/6, 65/8A, 65/8B & 65/9B in Pudupakkam Village, Tiruporur Taluk, Kancheepuram District and that she became the owner of the land in Survey Nos.65/8A and 65/8B measuring 29 cents, pursuant to a registered settlement deed executed in her favour on 08.03.2007 bearing Document No.2445 of 2007 on the file of Sub-Registrar, Tiruporur, which settlement deed was executed by her husband. In respect of Survey No.65/8A, she claims that after various transactions, finally 11 cents, out of 16 cents, had been conveyed to Zubaida Begum by T.Balaraman and others, who were the sons of Tiruvengada Mudaliar who had purchased 12 cents from K.Mari and others by Document No.531 of 1987 dated 26.03.1987 and balance 5 cents from Velayutham by Document No.2670 of 1987 dated 17.11.1987. In addition thereto, she also claims to have purchased 13 cents in Survey No.65/8B. She has also stated that the last Kist paid by K.Mari, the grandfather of the appellant was for the Fasli year 1382, namely, 1971 and therefore claimed that he was never



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in possession after executing the sale deed in the year 1971 to Tiruvengada Mudaliar. According to the fourth respondent, while incorporating the subdivision in the FMB extracts, the southern portion had been wrongly shown as Survey No.65/8B instead of Survey No.65/8A.

4. We have heard Mrs.G.Thilakavathi, learned Senior Counsel appearing for the appellant, Mr.P.Muthukumar, learned State Government Pleader appearing for the official respondents, Mr.K.Ravi Anantha Padmanabhan, learned counsel appearing for the contesting fourth respondent in W.A.No.2293 of 2022, Mr.S.Rajasekar, learned counsel appearing for the ninth respondent in W.A.Nos.1632 & 1754 of 2021 and also perused the materials available on record.

5. Admittedly, the appellant/writ petitioner had approached this Court twice with the writ petitions. When the Writ Petition No.7745 of 2019 was filed by him seeking a mandamus to the respondents 4 & 5 therein to cancel the layout approved No.18/2016 and Planning Permit No.22/2016 granted



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to the eighth respondent therein for the purpose of construction of flats in Survey Nos.64/10B, 12, 13, 65/1, 2, 6, 8A, 8B & 9B of Pudupakkam Village and further to revoke and cancel the gift deed bearing No.4070/2016 registered at SRO, Thiruporur, after hearing the parties, the learned single Judge disposed of the writ petition holding that so far as the first prayer as to the cancellation of the layout is concerned, after finding that the ninth respondent developer has excluded the disputed portion from the layout, as a result the said prayer does not survive and regarding the second prayer as to the gift deed, has clearly observed that the said issue also cannot be decided in the writ petition, till the dispute ends in favour of the writ petitioner, by the order dated 19.08.2019. When the Review Application No.228 of 2019 was filed by the writ petitioner to review the said order, the same was also dismissed by the order dated 25.02.2020. In the meanwhile, the writ petitioner approached the Revenue Divisional Officer, Kancheepuram and obtained an order in his favour. However, on an appeal filed by the fourth respondent, the said order was reversed by the District Revenue Officer, Kancheepuram directing the writ petitioner to approach the competent civil



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Court. The said order was again questioned by the appellant in Writ Petition No.30597 of 2019 and the learned single Judge, while dismissing the writ petition by the order dated 19.08.2021, in paragraphs 37 & 38, observed as follows:-

"37.The position of law is therefore very clear. The 1st respondent had correctly referred the parties to approach the civil court to decide the issues between them. The petitioner will not gain any advantage by correcting the entries in the revenue register. The 4th respondent asserts title to the entire 29 cents in S.Nos.65/8A and 65/8B. The writ petitioner, will therefore, necessarily have to assert and establish his title and the only forum available for that assertion is the civil court.

38.The Writ Petition will necessarily have to fail and the direction of the 1st respondent directing the parties to approach the civil court is upheld, I shall not interfere with the same."

6. As rightly held by the learned single Judge, when there has been a long dispute between the appellant/writ petitioner and the fourth respondent



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as to the ownership and title in respect of the land comprised in Survey No.65/8A situated in Pudupakkam Village, Thiruporur Taluk, Kancheepuram District, unless the title dispute is legally resolved between the parties concerned before the competent civil Court, this Court is unable to find any merit in the writ appeals. Therefore, the writ appeals are dismissed. The parties are at liberty to raise all the contentions before the competent civil Court for the purpose of establishing the title in respect of the land in question. Consequently, interim order stands vacated and the C.M.P.Nos.20630, 19211, 19212, 17499, 17500 of 2022, 10219, 10994 of 2021 are also dismissed. However, there shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

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