



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.01.2022

Pronounced on : 12.01.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.11547 of 2017 & 20002 of 2020 and
WMP.Nos.12536 & 12537 of 2017 and 24674 of 2020

WP.11547 of 2017

S.Jeyaprakash

..Petitioner

Vs.

- 1.The District Revenue Officer,
Thiruvallur District, Thiruvallur
- 2.The Revenue Divisional Officer,
Ambattur, Thiruvallur District
- 3.The Thasildhar,
Maduravoyal Taluk,
Maduravoyal,
Thiruvallur District, Chennai
- 4.S.Senthilkumar

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the first respondent passed in Rc.B3/9552/2016 dated 12.04.2017 and quash the same, consequently transfer the revision petition dated 26.04.2016 filed by the petitioner to some other appropriate authority.

For Petitioner

: Mr.Dama Seshadri Naidu
for Mr.P.Krishnan

For Respondents

For R1 to 3

: Mr.V.Jeevagiridharan,
Additional Government Pleader

For R4

: Mr.V.Raghavachari
for Mr.C.Arunkumar

WP.20002 of 2020

S.Jeyaprakash

..Petitioner

Vs.

- 1.The District Revenue Officer,
Thiruvallur District, Thiruvallur
- 2.The Revenue Divisional Officer,
Ambattur, Thiruvallur District



3.The Thasildhar,
Poonamallee Taluk,
Thiruvallur District
4.S.Senthilkumar
5.The District Collector,
Tiruvallur

(R4 suo motu impleaded vide order
dated 05.01.2021 in WP.No.20002 of 2020) ..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the third respondent to cancel the patta Nos.1915 & 4595 issued in the name of the fourth respondent and direct the third respondent to restore the patta as per order dated 04.04.2014 in Na.Ka.No.141/2014-A1 by considering the petitioner's representation dated 12.10.2020.

For Petitioner : Mr.Dama Seshadri Naidu
for Mr.P.Krishnan

For Respondents
For R1 to 3 & 5: Mr.V.Jeevagiridharan,
Additional Government Pleader

For R4 : Mr.V.Raghavachari
for Mr.C.Arunkumar

COMMON ORDER

The writ petition in WP.No.11547 of 2017 is filed to issue a writ of certiorarified mandamus calling for the records of the first respondent passed in Rc.B3/9552/2016 dated 12.04.2017 and quash the same, and consequently transfer the revision petition dated 26.04.2016 filed by the petitioner to some other appropriate authority. The writ petition in WP.No.20002 of 2020 is filed for direction directing the third respondent to cancel the patta Nos.1915 & 4595 issued in the name of the fourth respondent and direct the third respondent to restore the patta as per order dated 04.04.2014 in Na.Ka.No.141/2014-A1 by considering the petitioner's representation dated 12.10.2020.

2. Heard, Mr.Dama Seshadri Naidu, the learned counsel for the petitioner, Mr.V.Jeevagiridharan, Additional Government Pleader appearing for the respondents 1 to 3 & 5, and Mr.V.Raghavachari, the learned counsel for the fourth respondent.

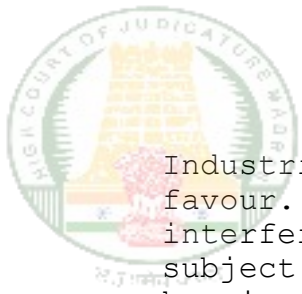
3. The case of the petitioner in WP.No.11547 of 2017 is that Tmt.Alamelu Ammal, V.Balasubramanian, Natesan, Periannan and Subbalan entered into a partnership in the name of Alamelu



Industries and the said partnership was registered in Sl.No.3157 of 1964 dated 26.10.1964. The said Alamelu Industries represented by its partner M.Subbaiah, father of the fourth respondent herein purchased the property comprised in survey Nos.96/A6, 96/A5, 47/3 and 47/4 (new survey Nos.13/5A, 13/5B, 13/6A) to an extent of 3.79 acres situated at Puliambedu, Numbal Village, Maduravoil, Chennai. After purchase, the partnership firm applied for ryotwari patta under Section 15 of the Tamilnadu Estate (Abolition and Conversion into Ryotwari) Act, 1948 before the Settlement Officer, Thanjavur. By order dated 18.02.1991, it was dismissed and aggrieved by the same, the partnership firm had preferred appeal before the Tribunal and by order dated 10.02.1992, the Tribunal set aside the order passed by the Settlement Officer, Thanjavur and remanded for fresh disposal. On receipt of the same, the Settlement Officer, Thanjavur, by order dated 18.08.1993, held that the partnership firm is entitled to get ryotwari patta in respect of the subject property and the said order was also confirmed by the Tribunal by order dated 30.03.1998.

4. While being so, on 09.02.1997, one of the partner of the partnership firm i.e. Alamelu Ammal had executed a registered Will in favour of the petitioner vide document No.20 of 1997. In the meanwhile, as per order passed by the Settlement Officer, the third respondent mutated the revenue records in the name of the partnership firm in respect of the subject property. Again on 21.06.2004, the said Alamelu Ammal executed a registered Will bearing document No.63 of 2004 in favour of the petitioner and other partners i.e. Subbaiah, Natesan and Sakthivel. In the said Will, Tmt.Alamelu Ammal bequeathed her share in favour of the fourth respondents' father Mr.Subbiah and share of Saradha & Co. bequeathed in favour of M.Natesan, who is the brother of the said Subbaiah. Finally, the said Alamelu Ammal on 29.01.2010 had executed another registered Will bearing document No.12 of 2010 in favour of the petitioner and bequeathed eight items of the property in his favour. The eighth item of the said property in the Will is the subject matter of the patta proceedings. Thereafter, she died on 10.06.2011 and after her demise, the father of the fourth respondent had filed probate petition in OP.No.377 of 2012 in respect of the Will dated 21.06.2004 before this Court to probate. It was converted as TOS.No.44 of 2013. The petitioner also filed OP.No.715 of 2013 before this Court to probate the Will dated 29.01.2010. Both are pending before this Court.

5. On 27.02.2014, the petitioner submitted application before the third respondent to include his name in the revenue records as joint patta holders along with patta of Alamelu Industries represented by its partner Subbaiah i.e. father of the fourth respondent herein. The third respondent by order of its proceedings dated 04.04.2014 directed to include the name of the petitioner along with other partners of Alamelu



Industries and accordingly patta No.68 was issued in their favour. While being so, the third parties attempted to interfere with the peaceful possession and enjoyment of the subject property and the father of the fourth respondent herein filed suit in OS.No.131 of 2014 for permanent injunction before District Munsif Court, Poonamallee. In the said suit, he produced Will dated 21.06.2004. Subsequently, the petitioner filed implead petition to implead himself as party to the said suit in IA.No.537 of 2014 and the same was allowed. The petitioner also lodged complaint as against the persons who attempted to trespass into the subject property. On the complaint, the petitioner as well as the father of the fourth respondent appeared and claimed rights over the property through the Will executed by the said Alamelu Ammal. However, both were directed to approach the Civil Court to work out their remedies.

6. The fourth respondent also submitted application before the third respondent for issuance of patta on 02.02.2014 on the strength of the settlement deeds dated 23.06.2014 and 28.08.2014. The petitioner also submitted documents before the third respondent and by order dated 18.05.2015, the third respondent passed order to maintain the revenue records in the name of the partnership firm and ordered to cancel the joint patta issued in the name of the petitioner. It is seen from the records that the fourth respondent submitted application before the third respondent on the basis that the father of the fourth respondent became absolute owner of the property based on the the deed of dissolution dated 04.11.1992 and 31.12.1993 and in turn, he executed settlement deed to an extent of 3.79 acres in favour of his wife dated 23.06.2014. Thereafter, his wife executed settlement deed in favour of the fourth respondent dated 28.08.2014. Aggrieved by the same, the petitioner filed private complaint before the District Munsif cum Judicial Magistrate, Sriperumbudur and the same has been taken cognizance in CC.No.176 of 2015 for the offences under Sections 120(b), 406, 465, 467 and 474 IPC and it is pending for trial.

7. The petitioner preferred appeal as against the order passed by the third respondent dated 18.05.2015 before the second respondent under Section 12 of the Tamilnadu Patta Passbook Act and the same was dismissed by order dated 05.04.2016. Aggrieved by the same, the petitioner preferred revision before the first respondent on 26.04.2016 along with interim application to stay the order passed by the second and third respondents. The interim application filed for stay was dismissed by the first respondent by order impugned in this writ petition dated 12.04.2017. While pending the present writ petition, the petitioner obtained the order of interim stay of all further proceedings of the order passed by the first respondent dated 12.04.2017. On the strength of the interim order passed by this Court, the petitioner submitted



representation on 12.10.2020 before the third respondent and requested to cancel the patta Nos.1915 & 4595 issued in favour of the fourth respondent and to direct the third respondent to restore the patta as per order dated 04.04.2014. The same was not considered and as such, the petitioner filed writ petition in WP.No.20002 of 2020 and while pending that writ petition, this Court by order dated 05.01.2021, suo motu impleaded the fifth respondent and directed the fifth respondent to conduct enquiry to verify and find out as follows:

(a) The circumstances in which the Tahsildar has deleted the name of the petitioner and others, and issued a patta exclusively in the name of the fourth respondent.

(b) Whether any notice were issued to the petitioner and other patta holders and it was mutated.

(c) If there is any mal-practice or dereliction of duty is spotted, what action is proposed against the concerned Tahsildar.

(d) The District collector shall file his report before this Court latest by 27.01.2021 and is also required to assist the Court by logging in the proceedings when the matter is taken up.

8. As directed by this Court, the fifth respondent filed status report, which revealed that there was a procedure flaw in the orders passed by the then Tahsildar, Ambattur in the proceedings dated 18.12.2001 and 02.01.2002 as the land classified as 'Anadheenam' which is a Government poramboke land. Since the order passed by the then Thasildar, Ambattur is in question, the subsequent orders passed by the then Tahsildar, Maduravoil in his proceedings RC.No.141/2014/ B1 dated 04.04.2014 and 18.05.2015 and the order passed by the Revenue Divisional Officer, Ambattur in his proceedings in RC.No.1730/2015/ A2 dated 05.04.2016 are null and void. Therefore, only after obtaining the genuineness of the order passed by the Settlement Officer Thanjavur dated 18.08.1993 and Estate Abolition Tribunal in Appeal No.1 of 1994 dated 30.03.1998 from the Settlement Officer, further action will be processed in accordance with law.

9. On perusal of the counter filed by the first respondent also revealed that they requested to obtain copies of the judgment made by the Estate Abolition Tribunal in Appeal No.1 of 1991 dated 10.02.1992 and 1 of 1994 dated 30.03.1998 and also sought for information before the Settlement Officer with regards to the genuineness of the orders passed by the Settlement Officer, Thanjavur in RP.No.3 of 1992 dated 18.08.1993 to dispose of the revision filed by the petitioner before the first respondent. Because of the interim order granted by this Court in this writ petition, the first respondent is abstained from passing final orders and



the main revision petition is pending.

10. Admittedly, there are two Wills executed by the said Alamelu Ammal by the Will dated 21.06.2004 registered vide document No.63 of 2004 in favour of the petitioner, the father of the fourth respondent, M.Natesan, who is the brother of the father of the fourth respondent and Sakthivel. By another Will dated 29.01.2010 in favour of the petitioner registered vide document No.12 of 2010. Both the Wills are pending before this Court for probate in TOS.No.44 of 2013 and OP.No.715 of 2013. That apart, on enquiry, the fifth respondent, the District Collector, Tiruvallur District found that there was a procedure flaw in the orders passed by the Tahsildar, Ambattur in proceedings RC.No.2330/2000/A4/18.12.2001 and 02.01.2002 as the land classified as 'Anadheenam' and as such the subsequent orders passed by the Tahsildar, Maduravoil in the proceedings RC.No.141/2014/B1 dated 04.04.2014 and 18.05.2015 and the orders passed by the second respondent dated 05.04.2016 in RC.No.1730/2015/A2 are null and void. Therefore, the first respondent cannot decide the revision filed by the petitioner without ascertaining the genuineness of the documents which were relied upon and without probating the Wills executed by the said Alamelu Ammal dated 21.06.2004 and 29.01.2010.

11. In view of the above, the first respondent is directed to pass order on the revision filed by the petitioner in RC.No.B3/9552/2016 subject to the result of the TOS.No.44 of 2013 and OP.No.715 of 2013 on the file of this Court and subject to the genuineness of the order passed by the Settlement Officer in RP.No.3 of 1992 dated 18.08.1993 and the Estate Abolition Tribunal / District Judge, Chengalpet District in EAT Appeal No.1 of 1994 dated 30.03.1998. In the meanwhile, the petitioner and the fourth respondent are directed to maintain status quo insofar as alienation of the subject property under patta Nos.1915 and 4595 pending disposal of the revision filed by the petitioner on the file of the first respondent. The third respondent is also directed to maintain status quo insofar as mutation of revenue records in respect of the subject property.

12. With the above directions, both the writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The District Revenue Officer,
Thiruvallur District, Thiruvallur

2.The Revenue Divisional Officer,
Ambattur, Thiruvallur District

3.The Thasildhar,
Poonamallee Taluk,
Thiruvallur District

4.The District Collector,
Tiruvallur.

5.The Thasildhar,
Maduravoyal Taluk,
Maduravoyal.

+1 cc to Mr.C.Arun Kumar, Advocate Sr.NO.2444

+2 ccs to Mr.P.Krishnan, Advocate Sr.NO.2579,2578

+1 cc to Government Pleader Sr.NO. 3078

WP.Nos.11547 of 2017 & 20002 of 2020

PL(CO)

A.SK(04.02.2022)