



W.P.(MD)No.10009 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10009 of 2012

and

M.P.(MD)No.1 of 2013

K.P.S.Kadar Ibrahim

... Petitioner

Vs

1.The District Revenue Officer,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Ilayankudi,
Sivagangai District.

4.V.Chinna Thambi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 1st respondent herein in his Proceedings Ba.Mu.No.B1/18927/2012 dated 06.07.2012 and subsequently directing the 3rd respondent to issue Patta in my favour, in respect of the property, situated in Sivagangai District, Ilayankudi Taluk at North Ilayankudi Group in S.No.58/3B to the extent of 0.05.0 Hectares.



W.P.(MD)No.10009 of 2012

For Petitioner : No appearance
For R1 to R3 : Mr.K.Balasubramani
Special Government Pleader
For R4 : Mr.S.Srinivasa Raghavan

ORDER

None appeared for the writ petitioner on the previous occasion. Today, the case is listed under the caption 'for dismissal'. Today also, there is no representation.

2. The learned counsel appearing for the contesting respondent informs the Court that the petitioner's counsel has been duly informed the Court about the listing of this case. It is open to this Court either to dismiss the writ petition for non-prosecution or to decide the case on merits based on the materials available on record.

3. I decided to adopt the latter course. It is seen that the property is comprised in old Survey No.58/3, Ilayankudi North measuring an extent of 70 cents belonged to one Palanichamy. He was blessed with two wives. The petitioner Kadar Ibrahim purchased 51 ½ cents from the said Palanichamy and the minor children born through his second wife vide sale deed dated



W.P.(MD)No.10009 of 2012

12.06.1995. The remaining extent was purchased by Vasuki wife of the fourth respondent herein. While so, the writ petitioner claimed ownership and enjoyment over the entire extent and filed O.S.No.123 of 1996 on the file of the District Munsif Court, Manamadurai. Evidence was adduced on either side. After contest, vide Judgment and decree dated 31.03.1998, the suit was decreed as prayed for. Aggrieved by the same, Vasuki wife of the fourth respondent filed A.S.No.68 of 1998 on the file of the Sub Court, Sivagangai. Vide Judgment and decree dated 25.11.1998, the decree passed by the trial court was modified and it was declared that the plaintiff Kadar Ibrahim will be entitled only to 51 ½ cents and permanent injunction was confined only to that extent. Based on the civil court's eventual outcome, the Tashildar, Ilayankudi issued order dated 29.07.1999 subdivided and granted patta for Survey No. 58/3A and Survey No.58/3B. While Survey No.58/3A stood in the name of the writ petitioner, Survey No.58/3B stood in the name of Vasuki. Aggrieved by the same, the writ petitioner filed an appeal before the Revenue Divisional Officer. The Revenue Divisional Officer set aside the proceedings of the Tahsildar, Ilayankudi and granted patta for the entire property in favour of the writ petitioner. Challenging the same, since Vasuki died in the year 2010, her husband fourth respondent herein filed revision before the District Revenue Officer, Sivagangai. Vide order dated 06.07.2012, the District Revenue Officer,



W.P.(MD)No.10009 of 2012

Sivagangai restored the order passed by the Tahsildar, Ilayangudi. Challenging the same, this writ petition has been filed.

4. After carefully going through the entire materials on record, I am more than satisfied that the impugned order has to be sustained. I went through the affidavit filed in support of this writ petition. It is not the case of the petitioner that the Judgment and decree made in A.S.No.68 of 1998 dated 25.11.1998 on the file of the Sub Court, Sivagangai was modified in second appeal. In other words, the Judgment and decree passed by the first appellate Court had become final. Therefore, the revenue record has to necessarily reflect the said outcome. The jurisdictional civil court namely the first appellate court has categorically held that the writ petitioner will be entitled only to 51 ½ cents. Therefore, the petitioner cannot claim patta beyond the said extent. The impugned order of the District Revenue Officer is in consonance with the civil court decree. No interference is called for.

5. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.08.2022

Index : Yes / No
Internet : Yes/ No
rmi



WEB COPY



W.P.(MD)No.10009 of 2012

To

- 1.The District Revenue Officer,
Sivagangai,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.
- 3.The Tahsildar,
Ilayankudi,
Sivagangai District.



WEB COPY



W.P.(MD)No.10009 of 2012

G.R.SWAMINATHAN, J.

rmi

W.P.(MD)No.10009 of 2012

17.08.2022