



W.P.(MD)No.15168 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.15168 of 2011

and

M.P.(MD)No.1 of 2011

R.A.Ramamoorthy

... Petitioner

Vs.

1.The District Collector,
having his office at Collectorate,
Ramanathapuram.

2.The District Revenue Officer,
having his office at Collectorate,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

4.Ramesh
(R4 is impleaded as per the order
dated 19.07.2022 in WMP(MD)
No.8786 of 2022)

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to call for the records and issue a writ of certiorari or any other writ or any direction or any other appropriate writ quashing the orders



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passed by the second respondent in his proceedings in N.K.B5/C.R.
276/07 dated 21.07.2011 as arbitrary, null and void.

For Petitioner : Mr.K.Guhan

For Respondents : Mr.P.Thambidurai,
Government Advocate for R1 to R3
No appearance for R4

ORDER

The present Writ Petition has been filed challenging the order passed by the second respondent herein under which the patta granted in favour of the writ petitioner by the Revenue Divisional Officer (RDO), Ramanathapuram, was cancelled for Survey No.139/3 in Mavilanthoppu, Keezhakarai, Ramanathapuram Taluk, Ramanathapuram District.

2. According to the writ petitioner, he is the owner of Survey No.139/3 and his title is disputed by the Government. Hence, he had filed O.S.No.91 of 1981 before the District Munsif Court, Ramanathapuram, as against the State of Tamil Nadu and two other private parties for the relief of declaration of title and permanent injunction.



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3. The suit property in the said suit is having the extent of 1 acres 28 cents in Survey No.139/3. After trial, the suit was decreed as prayed for. The State of Tamil Nadu filed A.S.No.86 of 1994 before the Principal District Court, Ramanathapuram and the learned Principal District Judge has dismissed the appeal on 22.03.1996. Thereafter, there are no records to indicate that the State of Tamil Nadu has preferred any second appeal.

4. The writ petitioner herein based upon the judgments of the civil Court had given a representation to the Revenue Divisional Officer (RDO) seeking patta for Survey No.139/3 and for other Survey Numbers. By order dated 28.10.2005, the Revenue Divisional Officer (RDO), Ramanathapuram, had granted patta in favour of the writ petitioner for the said Survey Numbers including Survey No.139/3.

5. As against the grant of said patta in favour of the writ petitioner, a third party, namely, Ramesh, who is arrayed as the fourth respondent herein, had sent a complaint to the Chief Minister Special



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Cell. Hence, the Revenue Divisional Officer (RDO) had conducted a re-enquiry and confirmed the patta with regard to Survey No.139/3 also.

6. Aggrieved over the same, the fourth respondent herein had approached the second respondent by way of revision.

7. The second respondent herein by an order dated 21.07.2011 has passed the impugned order to the effect that Survey No.139/3 is a pathway as per the lie and hence, the same has to be maintained as a pathway. Based upon the said findings, the second respondent had directed the cancellation of patta granted in favour of the writ petitioner for Survey No.139/3. He has also directed the third respondent to file a second appeal before the High Court as against the judgment and decree made in A.S.No.86 of 1994. The said order is under challenge in the present writ petition.

8. According to the learned counsel for the writ petitioner, as far as the Survey No.139/3 is concerned, title was declared by the



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District Munsif Court, Ramanathapuram and confirmed by the learned Principal District Judge, Ramanathapuram.

9. Though the State of Tamil Nadu represented by the District Collector, Ramanathapuram, was a party, they have not chosen to file any second appeal as on today. When the State of Tamil Nadu has accepted the title of the writ petitioner with regard to Survey No.139/3, the second respondent herein cannot reject the revenue patta for the said Survey Number. The judgment of A.S.No.86 of 1994 has been delivered on 22.03.1996. Though more than 25 years have lapsed, the State of Tamil Nadu has not chosen to file a second appeal and hence, the direction issued by the second respondent herein to file a second appeal before the High Court is also not legally sustainable. Hence, he prayed for allowing the writ petition.

10. Per contra, the learned Government Advocate appearing for the official respondents has contended that as far as the Survey No.139/3 is concerned, the general public are using it as a pathway and



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since it is a pathway as per the lie, the revenue authorities has chosen to pass an order allowing the general public. Hence, he prayed for dismissal of the writ petition.

11. I have carefully considered the submissions on either side and perused the documents filed in the typed set of papers.

12. Admittedly, the writ petitioner's title to an extent of 1 acres 28 cents in Survey No.139/3 has been declared by the civil Court as early as in the year 1996. Though the State of Tamil Nadu was a party to the said suit, so far they have not chosen to challenge the said judgment and decree. Hence, the revenue authorities are bound to issue patta as per the decree of the civil Court. They cannot question the classification of the land after a decree for declaration of title has been granted in favour of the writ petitioner.

13. In view of the above said facts, the order impugned is set aside and the third respondent is directed to issue patta for Survey No.139/3 for an extent of 1 acres 28 cents in favour of the writ petitioner.

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14. With the above observation, this Writ Petition is allowed.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR ,J.

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Order made in
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