



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 06.06.2022

ORDER PRONOUNDED ON : 09.06.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.5723 of 2011

and

MP(MD) .No. 1 of 2011

S.Sadick Ul Ameen

...Petitioner

Vs

1.The State of Tamil Nadu
Represented by its District Collector
Ramanathapuram District
Ramanathapuram

2.The District Revenue Officer
Ramanathapuram District
Ramanathapuram

3.The Revenue Divisional Officer
Ramanathapuram Revenue Division
Ramanathapuram District

4.The Tahsildar
Rameshwaram Taluk
Ramanathapuram District

5.V.Nagasamy
6.V.Petchiammal

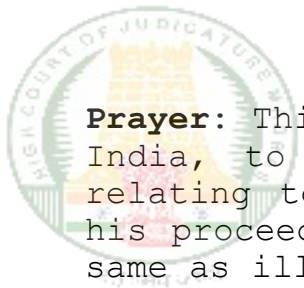
7.The President
Pamban Panchayat
Represented through M.Patrick
No.3/2174, Sethupathy Nagar
Pamban 635 521
Ramanathapuram District

8.Meena
9.Seethalaxmi

....Respondents

(7th Respondent impleaded vide Court order dated 23.04.2015)
(Respondents 8 & 9 are impleaded vide Court order
dated 24.03.2016)

<https://hcservices.ecourts.gov.in/hcservices/>



Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings **நக.பி.ச.அ. 247-2006** dated 06.05.2011 and quash the same as illegal.

WEB COPY

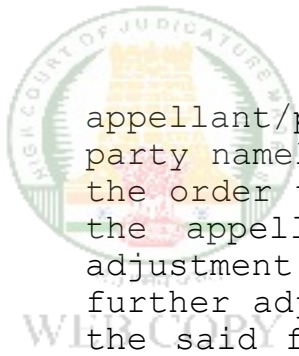
For Petitioner	: Mr.M.Ajmal Khan Senior Counsel For M/s,Ajmal Associates
For R1 to R4	: Mr.S.Shanmugavel Additional Government Pleader
R6	: Mr.T.Lajapathy Roy
R7	: Mr.A.Kannan
R8 & R9	: Mr.R.Devaraj

ORDER

The writ petition has been filed challenging the order passed by the second respondent herein on 06.05.2011 cancelling the order of Revenue Divisional Officer granting patta in favour of the vendor of the writ petitioner.

2.The writ petitioner has contended that he has purchased an extent of 1.86 acre in Survey No.974/2 in Pamban village, Rameshwaram Taluk under two sale deeds dated 04.08.2006 and 20.12.2007 from one Guruvammal and her children. The writ petitioner has traced his title through one Ganesan who has purchased the said property in a registered sale deed dated 23.05.1991. Since the Government of Tamil claimed title to the said property by virtue of Act 26 of 1948, the said Ganesan had filed O.S.No.265 of 1989 before the District Munsif Court, Ramanathapuram with a prayer for declaration of title and for permanent injunction as against the District Collector, Ramanathapuram. The said suit was decreed as prayed for. The appeal filed by the District Collector in A.S.No.96 of 1998 was allowed in part by the learned District Judge, Ramanathapuram on 01.12.1999 confirming the decree with regard to the prayer for permanent injunction. The learned District Judge was pleased to dismiss the suit with regard to the prayer for declaration of title. The said judgment in the first appeal was challenged in S.A.No.1276 of 2006.

3.Pending second appeal, the Revenue Divisional Officer, Ramanathapuram in furtherance of his powers conferred under Act 26 of 1948, granted patta to the writ petitioner's vendor on 01.03.2006. The said order was brought to the notice of the Hon'ble Court at the time of hearing of the second appeal. The said order was also acknowledged by the Government Pleader appearing for the District Collector. After perusing the said patta, this Court has passed an order on 19.11.2007 to the effect that the

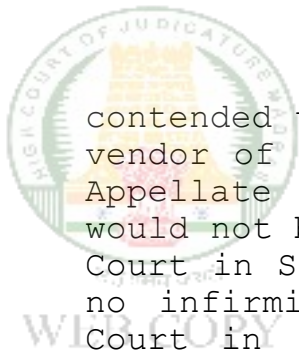


appellant/plaintiff has got valid title derived from the opposite party namely the respondent/Government. This Court further held that the order the Revenue Divisional Officer granting patta in favour of the appellant can be termed and regarded as a settlement and adjustment of the suit claim under Order 23 Rule 1 of C.P.C and no further adjudication in the second appeal warranted. After recording the said finding, this Court was pleased to dispose of the second appeal. However, the second respondent herein has passed the impugned order cancelling the patta issued in favour of the vendor of the writ petitioner on 06.05.2011. This order is under challenge in the present writ petition.

4. The learned Senior Counsel appearing for the writ petitioner had contended that when the District Collector was a party in the second appeal and he has not chosen to challenge the finding, the District Revenue Officer cannot proceed to hold that the patta order issued by the Revenue Divisional Officer is illegal and without jurisdiction. He had further contended that the order in the second appeal has been passed on 19.11.2007 and after four years, the District Revenue Officer has proceeded to pass an impugned order in the year 2011 referring to the order in the first appeal which is clearly unsustainable.

5.The learned Senior Counsel had further contended that one Mr.R.K.Velu at whose instance the revision was filed before the District Revenue Officer had passed away way back in the year 2007. However, without impleading his legal heirs, the District Revenue Officer has proceeded to pass the present impugned order. The learned Senior Counsel had further contended that the writ petitioner has purchased the property in the year 2007. However, without impleading him, the District Revenue Officer has proceeded to pass an order. The learned Senior Counsel had further pointed out that the patta in favour of the writ petitioner has also been issued on 27.12.2007. Hence, the impugned order passed by the District Revenue Officer on 06.05.2011 is clearly behind the back of the writ petitioner. Hence, he contended that the impugned order passed by the District Revenue Officer is clearly against the order of this Court in S.A.No.1276 of 2006.

6.Per contra, the learned Counsel appearing for the Government had contended that the impugned order has been passed on the ground that the Revenue Divisional Officer has no power or jurisdiction to grant patta in favour of the vendor of the writ petitioner. That apart, the property is dispute has been classified as a Sarkar Anatheenam and hence, the Revenue Divisional Officer will not have any power to reclassify the same and thereafter, grant patta in favour of the private parties. He had further contended that the vendor of the writ petitioner was issued with a notice and he was represented by a Counsel. The order could not be said to be in violation of the principles of natural justice. He had further



contended that the prayer for declaration of title sought for by the vendor of the plaintiff has been specifically rejected by the First Appellate court in A.S.No.96 of 1998. Hence, the writ petitioner would not be entitled to a patta. He had further contended that this Court in S.A.No.1276 of 2006 has also given a finding that there is no infirmity and illegality in the order of the First Appellate Court in disallowing the prayer for declaration of title. Only based upon the order of Revenue Divisional Officer, granting patta in favour of the writ petitioner's vendor, the second appeal has been disposed of. He had further pointed out that the second appeal has not been allowed and only disposed of relying upon Order 23 Rule 1 of C.P.C. Hence, he had contended that the order of Revenue Divisional Officer cancelling the patta cannot be found fault with and he prayed for dismissal of the writ petition.

7.I have given anxious consideration to the submissions made on either side.

8.O.S.No.265 of 1989 has been filed by the vendor of the writ petitioner before the District Munsif Court, Ramanathapuram for declaration of title and permanent injunction as against the State of Tamil Nadu, represented by a District Collector, Ramanathapuram for the same disputed property. The said suit was decreed by the trial Court on 30.07.1993.

9.The Government of Tamil Nadu filed A.S.No.96 of 1998 before the Principal District Court, Ramanathapuram. The learned District Judge confirmed the decree with regard to the permanent injunction but reversed the findings with regard to the declaration of title on the ground that the suit Village has been taken over by the Government under Act 26 of 1948. However neither the plaintiff nor his vendor have obtained patta under Act 26 of 1948. Based upon the said findings, the First Appellate Court had reversed the decree with regard to the declaration of title.

10.While S.A.No.1276 of 2006 filed by the plaintiff was pending before the High court, Revenue Divisional Officer, Ramanathapuram has passed an order on 01.03.2006. In his order, he has found that in village account erroneously it has been classified as a Government punja land. Based upon the said findings, he passed an order granting patta in favour of the vendor of the writ petitioner. This order of granting patta was placed before the High Court in the second appeal. The learned Government Advocate appearing for the State of Tamil Nadu had not objected to the said order of granting patta before the High court. In fact, both the parties agreed that nothing remains to be adjudicated in the second appeal, in view of the order granting patta in favour of the present writ petitioner's vendor. The learned Judge of this Court has also found that the appellants therein have derived valid title from the opposite party <https://hcservices.courts.gov.in/hcservices>. This Court has also proceeded to hold that



this granting of patta should be treated as adjacent as per Order 23 Rule 1 of CPC.

11.Once an order granting patta is accepted by the State of Tamil Nadu before the High Court and the same is recorded under Order 23 Rule 1 of C.P.C, thereafter an official who is subordinate to the District Collector cannot be heard to contend that such an order granting patta is not legally valid. The order impugned in the writ petition if allowed to stand, would only result in nullifying the order passed by this Court in S.A.No.1276 of 2006. That apart, when the order granting patta by the Revenue Divisional Officer has been accepted by the superior officer namely the District Collector, the District Revenue Officer cannot be heard to contend that the order of Revenue Divisional Officer is illegal.

12.Though the revision petitioner had passed away in the year 2007, the District Revenue Officer has proceeded to hear the revision petition and passed the impugned order in the year 2011. Though the patta has been transferred in the name of the writ petitioner in the year 2007 itself, he has not been impleaded in the revision proceedings and an order has been passed behind his back. When the order impugned in the writ petition is contrary to the order of this Court in S.A.No.1276 of 2006, this Court has no hesitation in holding that the impugned order is unsustainable in law.

13.In view of the above said discussion, the order impugned in the writ petition is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

msa

To

1.The District Collector
State of Tamil Nadu
Ramanathapuram District
Ramanathapuram

2.The District Revenue Officer
Ramanathapuram District

<https://hcserv1.hcservs.com/hcservs/>



3.The Revenue Divisional Officer
Ramanathapuram Revenue Division
Ramanathapuram District

4.The Tahsildar
Rameshwaram Taluk
Ramanathapuram District

+1 CC to M/s.R.DEVARAJ, Advocate (SR-24805[F] dated 09/06/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-25011[F]
dated 10/06/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-25272[F]
dated 13/06/2022)

+1 CC to M/s.SPL.GP (SR-25189[F] dated 10/06/2022)

Order made in
W.P. (MD) .No.5723 of 2011
and
MP (MD) .No. 1 of 2011
09.06.2022

SB (CO)
GC (17.06.2022) 6P 9C