



W.P(MD).No.15009 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.15009 of 2013

and

M.P(MD) Nos. 1 and 2 of 2013

S.P.Meenal

... Petitioner

-VS-

1. The District Revenue Officer,
Madurai.

2. The Revenue Divisional Officer,
Madurai District.

3. The Tahsildar,
Madurai South Taluk,
Madurai District.

4. N.Rajalakshmi

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records the impugned order in Na.Ka.No.76595/2009/ஐ.2, dated 10.09.2012 issued by the first respondent and quash the same.

For Petitioner : Mr.S.Vellaichamy



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For R-1 to R-3 : Mr.M.Lingadurai
Special Government Pleader
For R-4 : Mr.M.Saravanan

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, under which, he has granted patta in favour of the fourth respondent rejecting the request of the writ petitioner.

2. According to the writ petitioner, 50 Cents of land in Survey No. 162/8A was originally owned by the writ petitioner. She has sold 37 ½ Cents in favour of one Ramalingam by way of sale deed, dated 26.11.1990. After sale, the survey number was sub-divided and for the 12 Cents retained by the writ petitioner, sub division in S.No.162/8A2 was assigned and for the sold out portion, S.No.162/8A1 was assigned.

3. The learned Counsel for the petitioner further submitted that patta was granted in favour of the writ petitioner on 09.08.1990 for the total extent of 50 Cents. Thereafter, on 26.09.1991, based upon the sale deed executed by the writ petitioner, the survey number was sub-divided and the



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separate patta was issued in the name of the writ petitioner and he had purchased from the writ petitioner.

4. According to the learned Counsel for the petitioner, one Mohamed Hussain Sahib was granted patta on 28.04.1998 for Survey No.162/8A2 for an extent of 12 cents erroneously without considering the claim of the writ petitioner. Hence, she filed an appeal before the second respondent herein as against one Basheer Ahamed who claimed title under the said Mohamed Hussain Sahib. By an order, dated 28.04.1998, the second respondent had cancelled the patta granted in favour of the said Mohamed Hussain Sahib and granted patta in favour of the writ petitioner. According to the learned Counsel for the petitioner, this order had attained finality. Based upon the said order, again patta was granted in favour of the writ petitioner on 05.09.2005.

5. Per contra, the learned Counsel for the petitioner further submitted that suppressing all these proceedings, the fourth respondent herein had approached the first respondent contending that due to UDR error, the name of the writ petitioner has been entered in the revenue records and she prayed



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for cancelling the patta standing in the name of the writ petitioner and for restoring the patta in her name reiterating as stated in the UDR. The first respondent has proceeded to cancel the patta granted in favour of the writ petitioner and has granted patta in favour of the fourth respondent herein. This order is under challenge in the present writ petition.

6. The learned Counsel appearing for the fourth respondent herein had contended that the writ petitioner is the absolute owner of just 39 Cents and not 50 Cents as contended by them. She had alienated 37 ½ Cents in favour of Ramalingam on 26.11.1990. Thereafter, she was not having any title as sought for and owning any land in S.No.162/8A and erroneously, the name of the writ petitioner was included in the UDR proceedings. However, for the rest of the property, it was originally belonging to one Azhaguthevar, who had executed a registered sale deed in favour of one Mohamed on 10.05.1951. The said Mohamed had executed a sale deed in favour of Mohamed Hussain Sahib, on 16.02.1962. The legal heirs of Mohamed Hussain Sahib viz., Bazheer Ahamad had executed a sale deed in favour of the fourth respondent father, namely, Narasimmalu on 17.11.1995. The said Narasimmalu has executed a settlement deed in favour of the fourth



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respondent on 24.02.2009. Based upon the settlement deed dated 24.02.2009, the petitioner had approached the first respondent herein for transferring the patta in her name. Hence, according to the learned counsel for the respondents, the order impugned in the writ petition may be sustained.

7. I have carefully considered the submissions made on either side.

8. The learned Counsel appearing on either side brought to the notice of this Court that the fourth respondent had filed O.S.No.443 of 2009 before the Principal District Munsif Court, Tirumangalam. In the said suit, the writ petitioner is the first defendant. The said suit was filed for the relief of permanent injunction. A perusal of the plaint indicates that an extent of 12 Cents in S.No.162/8As is the subject matter of the said suit. The said suit has been dismissed on 08.11.2022.

9. According to the learned counsel appearing for the fourth respondent, they have already filed an appeal before the Sub Court, Thirumangalam and it is yet to be numbered. Any observation made by this



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Court with regard to the rights of the parties, would affect the contentions of both the parties in the first appeal pending on the file of the Sub Court, Thirumangalam.

10. In view of the above said facts, this Court has passed following the order:

(i) In view of pendency of the appeal before the Sub Court, Thirumangalam, the order impugned in the writ petition is sustained as of now; and

(ii) The parties are at liberty to approach the third respondent herein depending upon the result of the first appeal pending before the Sub Court, Thirumangalam.

11. With the above said observations, this Writ Petition stands disposed of. The parties are at liberty to raise all the pleas before the Sub Court, Thirumangalam. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.11.2022

Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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