



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.(MD) No.106 of 2022
& CMP(MD).No.1084 of 2022

M.Srinivasan

... Appellant/Petitioner

Vs.

1. The Special Tahsildhar,
Urban Land Tax Scheme,
Karur.
2. Mohamed Ilias Ansari
3. Thahirunisa
4. Mohamed Yaqub Ansari
5. Badrunissa
6. Asraf Begum
7. Hidayayatunissa
8. Sabirunnissa
9. Mohamed Abid Hussain Ansari
- 10.Meharunissa
- 11.Ferozeunissa
- 12.Kaleel Ansari
- 13.Mubarakunissa
- 14.Jahangir Ansari
- 15.Razia Sulthana
- 16.Shajahan Ansari

... Respondents/Respondents



Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 29.11.2021, made in W.P.(MD) No.1117 of 2015.

Prayer in WP(MD). 1117/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned order dated passed by 1st respondent dated 29.10.2014 in Pa.Ma.Petn.No.65 of 2014 , quash the same and thus render justice.

For Appellant : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

For Respondent No.1 : Mr.K.Balasubramani
Special Government Pleader

J U D G E M E N T

(Delivered by PARESH UPADHYAY,J.)

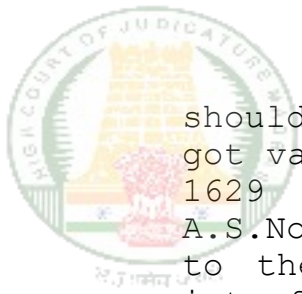
Challenge in this appeal is made to the order dated 29 November 2021 recorded on W.P(MD) No.1117 of 2015. This appeal is by an unsuccessful writ petitioner.

2. Learned advocate for the appellant has submitted that the rejection of the petition is erroneous. It is submitted that the name of the petitioner was already on record and therefore notice was required to be issued to him by the State Authorities. According to learned advocate for the appellant, the view in the impugned order that, issuing notice would be an empty formality is erroneous. It is submitted that when the writ petitioner was an interested party, going by the record of the Government itself, it was mandatory to issue the notice to him. It is also submitted that the first respondent did not have jurisdiction to change the record of the Government and on that count also the impugned action was required to be interfered with. It is submitted that this appeal be entertained.

3. Having heard learned advocate for the appellant/writ petitioner and having considered the material on record, this Court finds as under:-

3.1 Going by submission of learned advocate for the appellant, the subject matter of the property of this appeal / writ petition is the same which is referred to in the impugned order by learned Single Judge, more particularly, in paragraph Nos.18 and 19 which read as under :-

"18. I hold that re-examining the issue, would only be dragging the parties to further litigation and the matter



should rest at some point. The respondents 2 to 16 have got valid title owing to the judgment in S.A.Nos.1628 and 1629 of 2000. Pursuant to the earlier order in A.S.Nos.124 and 125 of 1995, the patta originally granted to the petitioner in W.P.(MD)No.1117 of 2015 had been interfered with.

19. Even if notice had been issued, the Writ Petitioner will have to get around the judgment of this Court in S.A.Nos.1628 and 1629 of 2000, dated 18.02.2019."

3.2 It was specifically enquired from learned advocate for the appellant that, in the event any interference is made by this Court in this appeal, what would be the consequence qua the judgment and decree passed by the Trial Court, as confirmed by the First Appellate Court, as confirmed by this Court in Second Appeal. To this, the answer is that, since the present appellant was not party to those proceedings, those decrees would not bind him. This itself would make it clear that, what is prayed in this appeal, in substance is such relief, which would negate the relief granted by the Civil Court after full-fledged adjudication which is confirmed right up to the Second Appeal stage.

3.3 It is also pertinent to note that, the Second Appeal as referred to in the impugned order at paragraph 19 is Second Appeal Nos.1628 and 1629 of the year 2000. These writ petitions were filed in the year 2013 and 2015. The Second Appeal which is referred to in paragraph 19 got finally decided vide judgment dated 18 February 2019. So the appellant was conscious of the two orders of the Civil Courts i.e., Trial Court and First Appellate Court, when these petitions were filed. No attempts were made to challenge the said judgment and decree(s), taking recourse to law. Grant of any relief in this appeal would, in substance, negate the orders passed by the Trial Court and the same need not be done. The powers under Article 226 of the Constitution of India can not be exercised to negate the judgment and decrees passed by the Competent Courts.

4. For the above reasons, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

The Special Tahsildhar,
Urban Land Tax Scheme,
Karur.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-6367[F] dated
16/02/2022)

+1 CC to M/s.SPL GP (SR-6462[F] dated 16/02/2022)

W.A. (MD) No.106 of 2022
15.02.2022

RK(25/02/2022) 4P 4C