



W.P(MD).No.12966 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.12966 of 2015

and

M.P(MD) Nos.1, 2 of 2015

and

W.M.P(MD) No.2357 of 2016

Sinthamani

... Petitioner

-VS-

1. The District Revenue Officer,
Pudukkottai,
Pudukkottai District.

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

3. The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

4. The Zonal Deputy Thasildar,
Arimalam,
Pudukkottai District.

5. Raju

6. Muthusamy

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of the second respondent dated 15.02.2010 in Na.Ka.A1/8515/2007 confirmed by the first respondent dated 07.10.2014 in Na.Ka.32190/10/D3 and consequently impugned order of the third respondent dated 16.06.2015 in Na.Ka.A6/13105/2014 and quash the same consequently forbearing the fourth respondent from issuing the patta in the name of the sixth respondent.

For Petitioner : Mr.V.Sasikumar
For R-1 to R-4 : Mr.A.Baskaran
Additional Government Pleader
For R-5 & R-6 : Mr.P.Ganapathi Subramanian

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, confirming the order of the second and third respondents.

2. According to the learned counsel for the petitioner, the survey number in dispute, namely, Survey No.237/3 belongs to the petitioner and



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his brother viz., Arumugam. The fifth respondent had filed a suit in O.S.No. 15 of 1998, on the file of the District Munsif Court cum Judicial Magistrate Court, Thirumaiyam, for the relief of permanent injunction. The said suit was dismissed and as against the same, the fifth respondent had filed a First Appeal in A.S.No.61 of 2000, on the file of the Additional District Court cum Chief Judicial Magistrate, Pudukkottai. The first appeal was dismissed, on 07.09.2001. Thereafter, no Second Appeal was filed by the fifth respondent herein.

3. However, the first respondent herein, by an order dated 07.10.2014 has proceeded to grant patta in favour of the respondents 5 and 6 herein rejecting the contentions of the writ petitioner. Under the impugned order passed by the first respondent, he has also directed the third respondent to conduct a detailed enquiry. The third respondent has passed a consequential order on 16.06.2015. According to the learned counsel for the writ petitioner, the order passed by the third respondent herein, dated 16.06.2015 is without issuing any notice to the writ petitioner herein.



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4. The efforts made on the side of the learned Additional Government Pleader appearing for the official respondents to procure the file has ended in vain.

5. Per contra, the learned Counsel appearing for the private respondents had contended that the petitioner or his brother do not have any title or possession over the property in dispute and the Revenue Authorities are rightly granted patta in their favour. Hence, he prayed for sustaining the order passed by the first respondent and the consequential order passed by the third respondent herein.

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

7. A competent civil Court by way of Judgment in O.S.No.15 of 1998, dated 24.03.2000 has rejected the prayer for permanent injunction made on behalf of the fifth respondent herein. The said Judgment and Decree of the learned District Munsif cum Judicial Magistrate has been confirmed by the learned Additional District Judge cum Chief Judicial Magistrate, Pudukkottai, in A.S.No.61 of 2000, dated 07.09.2001.



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8. A perusal of the Judgment indicates that the said judgment has been delivered with regard to Survey No. 237/3, which is the subject matter of the patta proceedings. The said judgment has not been properly appreciated by the first respondent and the order impugned in the Writ Petition has been passed. Moreover, the consequential order passed by the Tahsildar, on 16.06.2015 is without any notice to the writ petitioner.

9. In view of the above said facts, the orders impugned in the Writ Petition are set aside and the matter is remitted back to the file of the first respondent herein. The first respondent is directed to consider the matter afresh and pass orders on merits and in accordance with law, in the light of the Judgement and Decree in O.S.No.15 of 1998 and A.S.No.61 of 2000, after giving due opportunity to the writ petitioner and the respondents 5 and 6 herein. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. The first respondent is directed to dispose of the same by strictly adhering the time limit fixed by this Court and get back to the same to the Registry. Till such time, the parties shall not alienate or encumber the property.



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10. According to the learned counsel for the petitioner, at the time of admission, this Court has granted an order of interim stay, on 29.07.2015. However, in violation of the said interim order, the third respondent has effected transfer of patta in favour of the respondents 5 and 6 herein. In view of the above discussion, the patta shall be restored in the name of the writ petitioner till the matter is disposed of by the District Revenue Officer.

11. With the above said observation, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
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