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W.P(MD).No.23125 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 02.08.2022

ORDER PRONOUNCED ON : 05.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.23125 of 2015

and

MP(MD).No.1 of 2015 & W.M.P(MD)No.5329 of 2021

Augustus Samuel Dodd

... Petitioner

Vs

1.The Revenue Divisional Officer,
Devakkottai.

2.Saravanan

... Respondents

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 proceedings of the first respondent, dated 30.10.2015 in ப.மு.அ1 /2766/2015 served on 02/12/2015 and quash the same.

For Petitioner

: Mr.R.Sundar Srinivasan

For R1

: Mr.S.Shanmugavel
Additional Government Pleader

For R2

: Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.B.Muruganantham



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ORDER

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The present writ petition has been filed challenging an order passed by the first respondent herein, under which patta standing in the name of the writ petitioner was cancelled and it was granted in favour of the vendors of the second respondent.

2. According to the petitioner, the property in dispute is comprised a new Survey No.9/36C corresponding to old Survey No.9/36. The said property was originally owned by one Kulavan Ambalam, who executed a registered sale deed in favour of the petitioner's father on 17.04.1972. After purchase, the petitioner's father has put up a construction and the same is also assessed to property tax. During his lifetime, the petitioner's father had executed a settlement deed on 23.11.2001, pursuant to which the petitioner has become the owner of the disputed property. According to the petitioner, the property is in possession of the petitioner and his father for more than four decades.

3. The petitioner has further contended that the second respondent had filed an application before the first respondent contending that patta has been wrongly issued in favour of the writ petitioner and his father. The respondent claimed patta to the property contending that it originally belonged to



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Sivaganga Zamin and thereafter, it devolved upon the legal heirs, one Radha Krishnan and his brother Sivaraman. He further contended that though his father had passed away in the year 2007, the proceedings were initiated in the year 2015 as against a dead person. The learned counsel for the petitioner further contended that the first respondent has gone into the intricate issues of title and decided the title. Hence, he further prayed for allowing the writ petition.

4. Per contra, the learned senior counsel appearing for the second respondent has contended that the property in dispute originally was part of Sivaganga Zamin and the Zamin has executed a registered sale deed in favour of one Nataraja Durai on 24.03.1948. The said Nataraja Durai had executed a sale deed in favour of one Amirthammal, wife of Mangaibaga Konar on 17.02.1953. The property in dispute was subject matter of Act 26 of 1948. The Director of Survey and Settlement has passed an order on 22.05.1976, granting ryotwari patta for one acre in Survey No.9/29 in favour of Mangaibaga Konar. The learned senior counsel further contended that the Village Administrative Officer has given a certificate to the effect that the old Survey No.9/29 correlates to new Survey No.9/36 and other survey numbers. The learned senior counsel also relied upon the patta issued in favour of Mangaibaga Konar of Patta No.63 for the above said disputed property. When



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ryotwari patta has been issued in favour of Mangaibaga Konar in the year 1976, it is not known how the writ petitioner's father has executed a settlement in favour of the writ petitioner in the year 2011.

5. The learned senior counsel further contended that the said Mangaibaga Konar had passed away leaving behind his two sons, namely, Radhakrishnan and Sivaraman. The legal heirs of Radhakrishnan and Sivaraman have executed a power deed in favour of the second respondent. Only based upon the said power deed, he has initiated proceedings before the first respondent for restoration of patta in favour of Mangaibaga Konar.

6. The learned senior counsel further contended that if really the petitioner's father had purchased the property in the year 1972, he would have approached the settlement authorities under Act 26 of 1948. However, neither the petitioner nor his father have approached the authorities for grant of patta. The respondents have produced the title deeds from the year 1948 onwards, tracing their title to Sivaganga Zamin. The fact that the property in dispute is part of Sivaganga Zamin is confirmed in the order passed by the Director of Survey and Settlement on 22.05.1976. He further contended that the petitioner was not able to trace the title of one Kulavan Ambalam, from whom they are said to have purchased the property. In view of the above said



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circumstances, the impugned order passed by the first respondent herein may be sustained.

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

8. The petitioner has claimed title based upon a sale deed executed in favour of his father on 17.04.1972 by one Kulavan Ambalam. Thereafter, the petitioner's father is said to have executed a settlement deed in favour of the petitioner on 29.11.2001. A perusal of the sale deed in favour of the petitioner's father indicates that the survey number mentioned in the said sale deed is 1/1A1B1A1A, having an extent of 7 cents. The registered settlement deed in favour of the petitioner indicates that the survey number mentioned in the said registered settlement deed is Survey No.9/36c. No correlation records have been produced on the side of the petitioner to correlate the survey number found in the sale deed, dated 17.04.1972 and settlement deed, dated 29.11.2001. A revenue patta has been issued in favour of the writ petitioner's father in the year 2005, though he is said to have executed a settlement deed in favour of the writ petitioner even in the year 2001.

9. As rightly contended by the learned senior counsel, the property in dispute is part of Sivaganga Zamin and the same has been taken over by the



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Government under Act 26 of 1948. The second respondent's ancestors have applied for patta under Act 26 of 1948 and patta has been granted by Director of Survey and Settlement on 22.05.1976 for an extent of 1 acre in Survey No. 9/29. The respondents have also produced a correlation certificate, correlating 9/29 with the present disputed Survey No.9/36. The settlement patta granted in favour of Mangaibaga Konar on 22.05.1976 has not been challenged either by the petitioner's father or by the ancestor in title. In such circumstances, I do not find any infirmity or illegality in the order passed by the first respondent herein, mutating patta in favour of Mangaibaga Konar. However, the order passed in the patta proceedings by the first respondent herein could not preclude the writ petitioner from approaching the competent Civil Court for declaration of his title, if he is so advised.

10. With the above said observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.08.2022

Internet : Yes/No
Index : Yes/No
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To:

The Revenue Divisional Officer,
Devakkottai.



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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