BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.08.2022
DELIVERED ON : 30.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.5101 of 2016
and
W.M.P(MD)Nos.4527 & 4528 of 2016

Senthil Kumar
(Representing as Power Agent of)

1.C.Kannan
2.C.Geetha Lakshmi
3.C.Lalitha Lakshmi ... Petitioners

Vs.

1.The District Revenue Officer,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram District.

4.Ammanulla Kani
5.Seeni Hussai Kani
6.Ibrahim Kani

7.Zahir Hussain
8.Syed Ahamed Kabir
9.Bahadursha
10.Rahamuthulla
11.Ibrahim Kani
12.Batcha
13.Raja Mohammed
14.T.Ramkumar
15.T.Ramachandra Kumar ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned order passed by the first respondent herein in his proceedings in Pa.Mu.(Pi 5) 143/2013, dated 12.02.2016, signed on 22.02.2016 and quash the same as illegal.

For Petitioner : Mr.V.Meenakshisundaram

For R-1 to R-3 : Mr.D.Sasikumar
Additional Government Pleader
for M/s.Hema Sampath
Senior Counsel

For R-4, R-6, R-8 to R-10, R-12, R-14 & R-15 : Mr.M.Saravanan

For R-5, R-7, R-11 & R-13: No appearance

ORDER

The present Writ Petition has been filed to quash the order passed by the first respondent herein, under which, the names of the private respondents were also included and a joint patta was issued.

2. According to the petitioner, he is the power agent of the petitioners herein, who are the legal heirs of one Chairman Nadar. The said Chairman Nadar was the absolute owner of the lands in Survey Nos.167/2, 168/2, 169, 171/1, 171/3, 181/1 and 182/2, approximately for an extent of 53.5 acres in Kannirajapuram Village, Kadaladi Taluk, Ramanathapuram District.

3. According to the petitioner, a separate patta in the name of Chairman Nadar for Survey Nos.181/1 and 181/2 was issued. For other survey numbers, a joint patta was issued in favour of Chairman Nadar along with seventeen other persons. After the death of said Chairman Nadar, the writ petitioners became the owner of the properties. In the year 2009, the petitioners gave a representation to the Tahsildar for sub division and issuance of separate patta. Based upon the said request, separate patta was issued in the name of the writ petitioners in patta No.546.

4. The petitioner has further contended that the private respondents are strangers to the above said land and they are making a claim to the disputed survey numbers, based upon a final decree passed in O.S.No.21 of 1964. Based upon the said final decree, they made a request to the Tahsildar Kadaladi. The Tahsildar, Kadaladi, without issuing notice to the permanent address of the petitioners at Pondicherry, had allowed the petition and incorporated the name of the private respondents along with the writ petitioners and issued a joint patta in patta No.782.

5. The order of the Tahsildar was challenged by the petitioners before the Revenue Divisional Officer, Paramakudi. The Revenue Divisional Officer, by his order, dated 18.11.2013, passed a detailed order, allowing the appeal and set aside the order passed by the Tahsildar. In the said order, the Revenue Divisional Order has recorded that the final decree in O.S.No.21 of 1964 is no way connected with the disputed survey numbers. By allowing the appeal, the separate patta in the name of the writ petitioners was restored.

6. The petitioner has further submitted that the private respondents had filed a revision before the District Revenue Officer, Ramanathapuram. The Revisional Authority after conducting an enquiry, restored the order of Tahsildar, under which, a joint patta was granted. Challenging the said order, the present writ petition has been filed.

7. The learned Counsel for the petitioner had contended that the final decree proceedings relied upon by the private respondents in I.A.No.420 of 1988 in O.S.No.21 of 1964, dated 04.05.1989 on the file of the Sub Court, Ramanathapuram, does not reflect any survey number and hence, the said final decree cannot be relied upon by the Revenue Authorities for grant of patta in favour of the private respondents.

8. The learned Counsel for the petitioner had further contended that apart from the final decree proceedings, the respondents have not relied upon any document to establish their title or possession over the disputed property. Once, a separate patta was issued in the name of the writ petitioners by the Revenue Divisional Officer, the respondents ought to have approach the civil Court for declaration of their title and possession.

The Revisional Authority ought not to have interfered in the order passed by the Appellate Authority.

9. The learned Counsel for the petitioner had further contended that the Revisional Authority has arrived at an erroneous finding that the petitioners have not objected to the final decree, but they have only questioned the delayed application for patta. This finding is factually incorrect and the petitioner had contended that in fact, the petitioner has questioned the final decree on the ground that survey numbers are not disclosed in the said decree. Hence, he prayed for allowing the writ petition.

10. Per contra, the learned Senior Counsel appearing for the respondents had contended that the survey numbers in dispute and other adjacent properties were originally owned by Raja of Ramanathapuram and the same was given in grant to the ancestors of the respondents. There was some dispute among the ancestors and hence, the suit for partition was filed in O.S.No.21 of 1964 on the file of the Sub Court, Ramanathapuram and the same was decreed. Subsequently, I.A.No.420 of 1988 was filed, for passing a final decree and the Commissioner was appointed and he had suggested

allotment of shares to the members belonging to all the branches and a final decree was also passed. Since most of the legal heirs were residing outside Kannirajapuram Village due to their avocation, they did not mutate the revenue records in their name and the patta was standing in the name of their ancestors.

11. The learned Senior Counsel had further contended that the petitioners have approached in the Tahsildar in the year 2009 and managed to get a separate patta in their name, deleting the name of the private respondents. The said order was passed without any notice to the respondents. The respondents came to know about the same, only in the year 2012 and therefore on 09.01.2012, they gave an application to cancel the sub divisions and include the name of the legal heirs of the original pattadhars. Accepting their case, the Thasildar had passed an order, including their names in the patta and a joint patta was issued. However, the Revenue Divisional Officer, Paramakudi had erroneously allowed the appeal and hence, the respondents had filed a revision before the District Revenue Officer, Ramanathapuram. After considering the entire factual matrix, the first respondent herein has allowed the revision petition and has

restored the joint patta issued by the Tahsildar.

12. The learned Senior Counsel further contended that the respondents are not merely relying upon the final decree passed in O.S.No. 21 of 1964. She further contended that the settlement register of the year 1975 reflects the name of the private respondents. Only during UDR proceedings, the name of Chairman Nadar got included in the patta. Hence, it is clear that even before the final decree proceedings, the revenue records were standing only in the name of the ancestors of the private respondents.

13. The learned Senior Counsel further contended that at no point of time revenue records were standing in the name of the said Chairman Nadar. Only during UDR proceedings, erroneously the name of Chairman Nadar got included in the patta. Thereafter, the petitioners have managed to delete their names of the respondents and got a separate patta in their favour.

14. The learned Senior Counsel further contended that the names of the writ petitioners have not been deleted from the patta under the impugned order. In fact their names are retained, the names of the private respondents

alone has been included and a joint patta has been issued. Hence, the petitioners cannot have any grievance whatsoever as against the order passed by the first respondent herein, under which, the order of the Tahsildar was restored.

15. The learned Senior Counsel further contended that though the petitioners claim right over the disputed survey numbers by way of certain registered documents, none of the documents have been produced either before the Revenue Authorities or before this Court. Hence, she prayed for dismissal of the writ petition.

16. I have carefully considered the submissions made on either side and perused the typed set of papers.

17. The documents filed on the side of the private respondents indicate that in the settlement register for the disputed survey numbers, the names of the private respondents were incorporated. The settlement register does not disclose the name of the writ petitioners or their father Chairman Nadar. However, during UDR proceedings, the name of Chairman Nadar

has been included in the joint patta. The legal heirs of the said Chaiman Nadar were not satisfied with the inclusion of their names in the joint patta and approached the Tahsildar for sub division and grant of separate patta. The said request was accepted by the Tahsildar and an order was passed on 08.12.2009. However, the said order of Tahsildar came to the knowledge of the private respondents and thereafter, they had approached the Tahsildar for rectification of the same. After receiving objection from the private respondents, Tahsildar has issued a revised patta, cancelling the sub divisions and issuing a joint patta in patta No.782 on 24.01.2013.

18. This issuance of revised patta by Tahsildar was challenged by the writ petitioners before the Revenue Divisional Officer. The Revenue Divisional Officer by his order, dated 18.11.2013, reversing the order of Tahsildar on the ground that the final decree in O.S.No.21 of 1964 does not reflect the disputed survey numbers. The Revenue Divisional Officer further held that the private respondents have not taken separate possession on the basis of the final decree. Based upon the said findings, the Revenue Divisional Officer cancelled the order passed by the Tahsildar and restored the sub divisions and separate patta effected by the Thasildar, originally.

19. The respondents herein challenged the said order before the District Revenue Officer, Ramanathapuram by his order, dated 12.02.2016, has held that the petitioners have not questioned the fact that the final decree does not relate to the disputed survey numbers. The writ petitioners have only questioned the delay in seeking implementation of the final decree but have not questioned the very final decree itself. The District Revenue Officer further held that the private respondents have created various encumbrances and the possession of those properties have been entrusted to the purchasers. This clearly establishes that the private respondents are in possession of the property. The first respondent has further held that both the parties have not produced any anterior documents. The respondents in the writ petition have relied upon only the final decree and the petitioners have only relied upon only the UDR proceedings. Based upon the said findings, the first respondent herein set aside the order passed by the Revenue Divisional Officer and restored the order passed by the Tahsildar, under which, a joint patta was issued in favour of the writ petitioners and the private respondents.

20. The narration of the above said facts will clearly establish that both the parties have not produced any registered document in their favour to establish their title over the disputed survey numbers. However, the private respondents have produced settlement register of the year 1975 to establish that their ancestors names were incorporated in the settlement register. A perusal of the said record divulges that the petitioners' father's name is not reflected in the said settlement register. That apart, the writ petitioners have only relied upon their name being incorporated during UDR proceedings. In such circumstances, this Court can safely arrive at a finding that the private respondents have established that revenue records were standing in their name prior to UDR proceedings, especially during the settlement proceedings.

21. Till 2009, only joint patta was standing in the name of the petitioner and the private respondents. The petitioners have filed an application before the Tahsildar for sub division of the survey number and for separate patta. Hence, it is clear that before dispute arose a joint patta was standing in the name of the writ petitioners' father, namely, Chairman Nadar and the ancestors of the private respondents. Since both the parties

have not filed any registered documents, this Court is not in a position to arrive at any concrete findings with regard to the title or possession of the respective parties. Now the joint patta has been restored in the name of the writ petitioner along with the private respondents. If at all the petitioners are aggrieved by the inclusion of the private respondents in the joint patta, it is for them to approach the competent civil Court to establish their title and possession for all the disputed survey numbers.

22. In view of the above said discussions, this Court passes the following order:

*"**(i)** The order impugned in the writ petition is sustained.*

***(ii)** The petitioners are at liberty to approach the competent civil Court for establishing their title and possession over the disputed survey numbers.*

***(iii)** Depending upon the result in the civil suit, the parties are at liberty to approach the Revenue Authorities for mutation of revenue records".*

23. With the above said observations, the writ petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

30.08.2022

Index : Yes / No
Internet : Yes / No
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To

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Ramanathapuram District.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram District.

R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.5101 of 2016

30.08.2022