



C.R.P. No. 600 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. No. 600 of 2023

and

C.M.P. No. 4832 of 2023

S.Vetriselvan,
S/o. P.M.Santhanantham

... Petitioner

Vs.

1. Velmurugan
S/o. Jayapal
2. The District Collector,
Collector Office Compound,
Salem-1.
3. The District Revenue Officer,
Collector Office Compound,
Salem-1.
4. The Revenue Divisional Officer,
Revenue Divisional Office,
Attur Town and Taluk,
Salem Dt.



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5. The Tahsildar,
Taluk Office,
Pethanayakkanpalayam Town and Taluk,
Salem Dt.

6. The Village Administrative Officer,
Kalyanagiri Village,
Padayachiyar Village,
Pethanaickanpalayam Taluk,
Salem Dt.

7. The Sub-Registrar,
Sub-Registrar Office,
Pethanaickanpalayam Town and Taluk,
Salem Dt.

8. Thandavaraya Naicker,
S/o. Sadaya Naicker

9. Senthilkumar,
S/o. Thandavaraya Naicker

.. Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, to set aside the decree and order dated 04.11.2022 and made in I.A.No. 304 of 2017 in O.S.No.233 of 2016 on the file of the Principal District Munsif, Attur.

For Petitioner : Mr. U.Gowrishankar



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ORDER

Challenging the impugned order passed in I.A.No.304 of 2017 in O.S.No.233 of 2016 on the file of District Munsif, Attur, the Revision Petitioner/7th defendant has preferred this Civil Revision Petition.

2. The 1st respondent/plaintiff filed a suit in O.S.No. 233 of 2016 seeking for the relief of declaration with regard to the cancellation of natham patta order in Na.Ka.No.26136/2009/G1, dated 10.08.2009 issued by the 2nd defendant District Collector and other consequential relief against the defendants. In that suit, totally nine defendants were added as parties and this Revision Petitioner is added as 7th defendant. After receipt of notice, the 7th defendant filed an application in I.A.No. 304 of 2017 before the trial court praying to reject the plaint by invoking Order VII Rule 11 of C.P.C. stating that under the Patta Passbook Act, the plaintiff is not entitled to file a suit before the trial court to declare the cancellation of natham patta dated 10.08.2009 as invalid for the reason that the District Registrar/Sub-Registrar is empowered to invoke the jurisdiction to conduct the enquiry with regard to the documents, which were registered by the parties concerned without title. Further, he has contented that the patta, which was



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issued in favour of plaintiff was already cancelled. So, the plaintiff is not entitled to straight away file a suit for declaration and on the other hand, he ought to have availed appeal remedy before the concerned revenue authority. Therefore, he prayed to reject the plaint. In that application, the plaintiff filed his objections. On hearing both sides, the trial judge concludes that since the 2nd defendant in the suit had cancelled the house site patta without affording a reasonable opportunity to the plaintiff and the same would violate the natural justice and also the order was not communicated to him. So, the opportunity has to be given to the plaintiff. Further, he has also contented that already this Revision Petitioner/7th defendant approached the District Registrar to cancel the gift deed as per Sec.82 and 83 of Registration Act and whether the said deed was manipulated is yet to be decided only by recording evidence. Therefore, the trial judge dismissed the application. Now, challenging the same, the present Civil Revision Petition has been filed.

3. Today, when the matter taken up for hearing, the learned counsel for Revision Petitioner/7th defendant would submit that already the patta,



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which was issued in favour of plaintiff was cancelled by the revenue department, but based on that, a Gift deed was executed by manipulating the document and the same was registered after cancellation of patta in favour of plaintiff by his father Jayapal. So, on receipt of a complaint, enquiry was conducted by the District Registrar and after due enquiry, the revenue officials cancelled the patta. So, the plaintiff as on date, has no title over the property, but he fraudulently inserted the survey No.169/32 in the gift deed and obtained patta No.128, which would clearly proves that it is a manipulation of the document. But, however, as per the new amendment, Sec.77-A of Registration Act empowers the District Magistrate to conduct enquiry with regard to fraudulent document. Already this defendant approached the registration authorities by filing an application to conduct enquiry long back much earlier in the year of 2006, so, as per the reason assigned by him, he is empowered to file an application. Therefore, this Revision Petitioner is directed to file a fresh application before the concerned District Registrar to conduct enquiry under Sec.77-A of Registration Act within a period of two weeks from the date of receipt of copy of this order and on such application, the District Registrar is directed



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to conduct enquiry by giving due notice to all the parties and dispose the application on merits. Accordingly, this Civil Revision Petition is disposed of on merits. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

Principal District Munsif,
Attur.



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T.V.THAMILSELVI, J.

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