



Order dated 19.10.2023
in W.P.No.11110 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.10.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.11110 of 2023

Mr.K.Mahesh

.. Petitioner

Vs.

1. The District Collector,
Rajaji Salai, Chennai.
2. The Revenue Divisional Officer,
Guindy-Mambalam Taluk,
Chennai.
3. The Tahsildar,
Guindy Taluk Officer,
Guindy, Chennai.
4. K.Saroja
5. K.Ravi Verma
6. K.Parthiban
7. K.Vinayagam
8. S.Jothilakshmi
(Respondents 4 to 8 impleaded as
Legal Representatives of
S.K.Krishnan, Vide Order dated 14.07.2023
in W.M.P.No.12413 of 2023 in
W.P.No.11110 of 2023)

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.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to initiate appropriate action and cancel patta in the name of S.K.Krishnan legal heirs and bearing the Survey No.76, T.S.No.87 and by considering the application of the petitioner, dated 14.11.2022.

For petitioner : Mr.M.R.Radhakrishnan

For respondents: Mr.V.Veluchamy, Addl.G.P. for RR-1 to 3

Mr.S.Rajendra Kumar for Mr.R.Siva Shanmugam
for RR-4 to 8

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to initiate appropriate action and cancel patta in the name of S.K.Krishnan's legal heirs and bearing Survey No.76, T.S.No.87 and by considering the application of the petitioner, dated 14.11.2022.

2. This case has a chequered history and facts in nut-shell are as under:

(a) One of the legal heir of late Ellaiya Reddiyar and one Mr.Kanniya Reddy who was greater grand-father of the petitioner, was the absolute owner of



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the land measuring an extent of 1.87 acres comprised in Survey No.76, T.S.No.87, situated in Eekattuthangal Village, Guindy Taluk, Chennai and the petitioner's grand-father Ellaiya Reddiyar, had executed General Power of Attorney and sale agreement to one Mr.Arumugam, who is the partner of M/s.Ambal Traders. Further, based on Power of Attorney, the said Arumugam formed lay-out and the property in question was sold based on the instalment scheme and in the course of sale proceeds, one Mr.S.K.Krishnan also claimed against the said property and created dispute.

(b) The petitioner's grand-father Ellaiya Reddiar and others, filed a suit for permanent injunction and declaration against the said Mr.S.K.Krishnan and others relating to the above said property comprised in T.S.No.87, measuring an extent of 1.87 acre, vide, in O.S.No.8909 of 1979 on the file of the XIV Assistant City Civil Court, Chennai, which was dismissed on 12.10.1987, against which, Ellaiya Reddiyar and others preferred First Appeal in Appeal Suit No.158 of 1989, which was allowed on 13.04.1989 by the VI Additional City Civil Court, Chennai, as against which, the said S.K.Krishnan and others preferred Second Appeal before this Court in S.A.No.1661 of 1989.

(c) Pending the Second Appeal, the said S.K.Krishnan colluded with the Revenue Authority and got modification order from the Assistant Settlement Officer on 16.03.1993, which was cancelled by the earlier order dated



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21.07.1968 illegally.

(d) As against the above said order of the Assistant Settlement Officer, the legal heir of late Elliya Reddiyar preferred a Writ Petition before this Court in W.P.No.8315 of 1993, which was disposed on 04.08.2022, directing the Revenue Officials to restore the patta in terms of the judgment in S.A.Nos.47 of 2013 and 294 of 2016 and carry out necessary corrections in terms of the judgment of this Court in S.A.Nos.47 of 2013 and 294 of 2016, dated 18.04.2022, in the Revenue Records and other documents maintained by the respondents therein.

(e) As against the interim order dated 03.08.1993 passed by the learned Single Judge, in W.M.P.No.13058 of 1993 in W.P.No.8315 of 1993, a Writ Appeal was preferred before this Court in Writ Appeal No.862 of 1993, which was allowed by a Division Bench of this Court on 17.08.1993, staying the operation of the order dated 16.03.1993 passed by the Assistant Settlement Officer, in Na.Ka.A.4/3840/92, and which was challenged in W.P.No.8315 of 1993. The Division Bench further directed to decide W.P.No.8315 of 1993 be disposed of along with S.A.No.1661 of 1989. Thereafter, this Court, on 24.12.1999, in S.A.No.1661 of 1989, remanded the matter to trial Court.

(f) Based on the remand order of this Court in the said Second Appeal in S.A.No.1661 of 1989, the XIV City Civil Court, Chennai, decreed the suit in O.S.No.8909 of 1979 on 10.12.2007, declaring the title of the legal



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representatives of the deceased first plaintiff therein (Elliah Reddiar), the plaintiffs 4 and 6 to 11 therein to the suit property (which is under dispute in this Writ Petition also). As against the decree passed on 10.12.2007, in the said O.S.No.8909 of 1979, First Appeals (Appeal Suits) in A.S.Nos.256 and 274 of 2008 were preferred by S.K.Krishnan and others, before the Additional District and Sessions Court, Fast Track Court No.IV, Chennai, which were dismissed on 22.03.2012. As against the dismissal of the said A.S.No.256 of 2008 on 22.03.2012, Second Appeals were preferred by S.K.Krishnan and others before this Court in S.A.Nos.47 of 2013 and 294 of 2016, which were dismissed by this Court on 18.04.2022.

(g) While the said Second Appeals were pending before this Court, S.K.Krishnan died and his legal heir(s) were impleaded as parties to the Second Appeal(s). It is further alleged by the petitioner that pending the Second Appeal(s), the legal heir(s) of Late S.K.Krishnan colluded with the third respondent and they had illegally applied and received Patta from the third respondent-Tahsildar based on the false information and suppressed the material facts.

(h) As against the dismissal of the Second Appeal in S.A.No.47 of 2013 and 294 of 2016 on 18.04.2022, a Review Application in Rev.A.No.209 of 2022 was filed before this Court by the legal heirs of S.K.Krishnan (since deceased)



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and the said Review Application was also dismissed on 07.09.2022. Further, as against the common judgment in S.A.Nos.47 of 2013 and 294 of 2016, dated 18.04.2022, one T.Rajendran preferred a Special Leave Petition before the Supreme Court, in Special Leave Petition (Civil) Diary No.31615 of 2022, which was dismissed on 30.01.2023. As against the said order dated 07.09.2022 of this Court in Rev.A.No.209 of 2022, a Special Leave Petition was filed by the legal heirs of the deceased S.K.Krishnan before the Supreme Court in S.L.P.(Civil).Diary No.31743 of 2022, which was also dismissed by the Supreme Court on 04.09.2023 holding that the connected S.L.P.(C).Dy.No.31615 of 2022 was already dismissed on 30.01.2023 by the Supreme Court and also observing that the fate of S.L.P.(C).No.31743 of 2022 is same as in S.L.P.(C).No.31615 of 2022.

(i) Further, this Court, in W.P.No.8315 of 1993 filed by one E.K.Achutha Rerddiar and another, disposed of the said Writ Petition on 04.08.2022, directing the Revenue Officials to restore the Patta in terms of the judgment rendered in S.A.No.47 of 2013 and 294 of 2016 and to carry out necessary corrections in terms of the judgment of this Court in S.A.Nos.47 of 2013 and 294 of 2016, dated 18.04.2022, in the Revenue Records and other documents maintained by the respondents therein.

(j) At this stage, the petitioner applied for issuance of Patta to all the



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official respondents herein on 27.09.2022 and 14.11.2022. Pursuant to the petitioner's application dated 14.11.2022, the second respondent had directed the third respondent to make a detailed enquiry and submit a report to him, vide letter dated 05.12.2022.

(k) It is the grievance of the petitioner that after intimation by the second respondent, the petitioner had approached the third respondent, and the third respondent was evading and it is the contention of the petitioner that the third respondent neglected to take steps for submitting the report to the second respondent and the issue involved in this Writ Petition is pending from 05.12.2022 till date.

(l) Having no right on the issue, the legal heirs of the deceased S.K.Krishnan applied for patta before the third respondent. Neither any inspection was conducted, nor any enquiry was made by the third respondent. Ultimately, the third respondent issued patta illegally in the name of Late S.K.Krishnan's legal heirs, and since the third respondent refused to comply with the order dated 04.08.2022 passed in S.A.No.47 of 2013, the present Writ Petition has been filed for the relief stated supra.

3. Learned counsel for the petitioner submitted that the petitioner has got declaration of title right from the trial Court to the Supreme Court, details of



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which are stated above. But still, the petitioner is not able to get the undisputed patta in his favour. Though initially the Patta stood in his name and pending the Second Appeals and without giving notice or affording an opportunity of hearing, the rival parties of the petitioner suppressed the factum of the pendency of the Second Appeals and impleaded the fourth respondent and others, and they have obtained Patta in the name of the impleaded fourth to eighth respondents.

4. It is further submitted by the learned counsel for the petitioner that the official respondents, without verifying the facts and the orders passed by Civil Courts till the Supreme Court, transferred the patta from the petitioner to the fourth respondent. Even after the disposal of the Second Appeals by this Court in favour of the petitioner, as seen from the facts, so far, the official respondents have not considered the representation dated 14.11.2022, of the petitioner regarding issuance of Patta based on the title of the petitioner. Since the said representation is still pending, the petitioner has filed the present Writ Petition for the relief stated supra.

5. Even the subsequent event that the fourth respondent lost in the Second Appeals filed before this Court, and till the legal heirs of the deceased S.K.Krishnan approached the Supreme Court by way of S.L.Ps. stated above,



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which were ultimately dismissed, and even subsequent to the dismissal of the S.L.Ps., the unsuccessful fourth respondent also filed a Review Petition before this Court, which was also dismissed and even after dismissal of the said Review Petition, the legal heirs of the deceased S.K.Krishnan battled upto the Supreme Court and as they had lost their defence before the Supreme Court, as narrated above in the facts. But however, the petitioner's title has been upheld in the Judicial Process up to the Supreme Court in the above stated S.L.Ps., which were dismissed, yet, still, according to the learned counsel for the petitioner, the petitioner is not able to obtain Patta.

6. Since the representation dated 14.11. 2022 filed before the official respondents is pending and not having been considered by them, and taking into consideration the fact that this Writ Petition is filed only for issuance of a Mandamus, and taking into account the limited scope of the prayer made in this Writ Petition, the respondents 1 to 3 are directed to consider the petitioner's representation, dated 14.11.2022 immediately without any further delay and dispose of the said representation on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

7. It is made clear that this Court has not decided the issue involved in



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this Writ Petition on merits, and it is for the respondents 1 to 3 to consider the same while disposing of the said representation.

8. It is also made clear that while disposing of the said representation, the respondents 1 to 3 are directed to give notice and opportunity of hearing not only to the petitioner, but also the respondents 4 to 8 herein and any other rival parties, and thereafter pass appropriate orders on the said representation based on merits.

9. With the above observations and directions, the Writ Petition is disposed of. There shall be no order as to costs.

19.10.2023

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To

1. The District Collector,
Rajaji Salai, Chennai.
2. The Revenue Divisional Officer,
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3. The Tahsildar,
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