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W.A.No.937 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.A.No.937 of 2014 and

M.P.Nos.1 and 2 of 2014

R.Sivaguru

... Appellant

Vs.

1. M.Thirukumaran @ Kumar

2. The District Collector,
Thiruvallur District, Thiruvallur.

3. The Revenue Divisional Officer,
Office of Revenue Department, Ambattur,
Thiruvallur District.

4. The Tasildhar, Officer of the Tasildhar,
Ambattur, Thiruvallur District.

... Respondents

Prayer : Writ Appeal filed under Section 15 of Letters Patent to set aside the order passed by this Court in W.P.No.8328 of 2014 dated 04.04.2014.



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For Appellant : Mr.R.Rajarajan

WEB COPY For Respondents : Mr.S.Dinesh Babu for R1

Mr.E.Veda Bagath Singh,

Special Government Pleader for R2 to R4

JUDGMENT

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

The appellant has filed this intra court appeal, challenging the order passed by this Court in W.P.No.8328 of 2013 dated 04.04.2014.

2. The brief facts leading to file the appeal is as follows.

The first respondent herein had filed the above writ petition stating that, he is the absolute owner of the property bearing survey No.35/2A New Survey No.35/32, measuring to an extent of 1710 sq.ft. situated at Chettiar Agaram Village, Ambattur Taluk, Thiruvallur District and he possessed the said property by way of settlement deed dated 11.06.2012, executed by his daughter in favour of him. The property tax and other revenue records had also mutated in his name. In such circumstances, the appellant herein, purchased a property from one Mahdevan, who alleged to be the power



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agent of one Kirubanidhi in the year 2011, vide document No.4767/2012.

Subsequently, he filed an appeal based on the sale deed to cancel the patta stands in the name K.Divya, the daughter of the first respondent/ writ petitioner and the Revenue Divisional Officer, Ambattur, Thiruvallur District had cancelled the patta, vide order dated 04.03.2013. Hence the writ petitioner/ first respondent herein has filed the above said writ petition to quash the order of cancellation of patta issued against him. This Court, vide order dated 04.04.2014 has allowed the writ petition by setting aside the impugned order passed by the Revenue Divisional Officer, Ambattur. Challenging the order passed by the Writ Court, the appellant has filed the present intra court appeal.

3. Heard the learned counsel for the appellant and the respondents and also we have perused the materials on record.

4. According to the appellant, originally the survey No.35/2A belonged to one Kirubanidhi, who had executed a power of attorney deed, vide document No.216/1981 in favour of one Mahadevan and



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subsequently, when the said power was sought to be cancelled by Kirubanidhi, the said Mahadevan had filed O.S.No.554/1983 on the file of the District Munsif, Poonamallee and it was decreed in favour of him. Thereafter, the appeal filed by the said Kirubanidhi in A.S.No.57/1990 on the file of Sub Court, Poonamallee was also dismissed. Subsequently the second appeal in S.A.No.1807/1991 filed by the said Kirubanidhi before this Court also ended against him. Therefore, as per the decree and judgment, Mahadevan has sold the properties, from whom, the appellant had purchased the property for valuable consideration, vide sale deed dated 26.12.2011, vide document No.4767/2011 and he is in possession and enjoyment of the property. When he applied for issuing patta, he came to know that the said property stands in the name of one Divya, daughter of the first respondent and hence, by filing appeal, the patta granted in the name of the Divya was cancelled by the Revenue Divisional Officer, Ambattur. However, the Writ Court has quashed the above said order.

5. The first respondent herein also claimed that he is the owner of the property in question. According to him, originally the property in Plot



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No.54, survey No.35/2A forms part of 48 cents was sold by one Kirubanidi to one Shanmugamvide document No.1197/1983 and the said Shanmugam has given power to one Satyanaryana, by document No.286/1986, who in turn sold the property to one Vimala Mukundan, vide document No.1276/1987. The said Vimala Mukundan mortgaged the property in Indian Bank, Alwarpet and since she committed default, property was brought for auction and through auction sale, the said property was purchased by one Vinodkumar, vide document No.1093/2007, who in turn, sold to one Srinivas Raman, by document No.7831/2008, from whom, one Latha Kumar purchased the property, vide document No.7630/2010. From the above said Latha Kumar, the writ petitioner's daughter Divya had purchased the property vide document No.4415/2015, thereafter, vide settlement deed dated 11.06.2012, she settled the property in favour of the first respondent. Therefore, the Writ Court has rightly cancelled the patta issued in favour of the appellant and it does not warrant any interference by this Court.



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6. The learned counsel for the first respondent/writ petitioner submitted that he is having a clear title over the property. However, the appellant herein had filed a suit in O.S.No.100/2020 on the file of the Subordinate Court, Ponneri with regard to the title of the property and the same was dismissed. Against which, he has filed an appeal in A.S.No.279/2021 before the Principal District and Sessions Judge, Tiruvallur and the same is pending. Therefore, he seeks for dismissal of the appeal.

7. At this juncture, the learned counsel for the appellant fairly submitted that the issues involved in the matter shall be decided only by the competent civil court.

8. The learned counsel for the first respondent/writ petitioner has also not controverted to the above said submission.

9. At this juncture, it is useful to rely upon the decision of the Hon'ble Supreme Court of India in *M/s. Edelweiss Asset Construction Company*



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Limited vs. R.Perumalsamy and others, reported in AIR 2020 SC 3688, in

WEB COM which it is held as follows:

“19. Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil Court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication.”

10. In the light of the above said decision of the Apex Court, it is clear that the remedy with regard to the patta and title of the property are only before the Civil Court. Therefore, we are of the view that the patta already granted in favour of the first respondent herein is subject to the outcome of the decision of the civil Court.

12. Accordingly, this writ appeal is allowed and the order passed by the Writ Court in W.P.No.8327/2013 dated 06.08.2014 is set aside. No costs. Consequently, connected miscellaneous petitions are closed. The concerned civil Court shall decide the Appeal independently without being



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influenced by any of the observation made by this Court.

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(D.K.K.J.)

(P.B.B.J.)

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Internet: Yes/No

Index : Yes/No

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