



W.A.No.1815 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

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The Tahsildar
Attur Taluk
Attur – 636 102
Salem District.

.. Appellant

Vs

S.Govindarajan

.. Respondent

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 28.7.2021 passed by the learned Single Judge in W.P.No.30399 of 2015.

For the Appellant : Mr.P.Muthukumar
State Government Pleader

For the Respondent : Mr.C.V.Vijayakumar



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.P.Muthukumar, learned State Government Pleader for the appellant and Mr.C.V.Vijayakumar, learned counsel for the respondent.

2. The appellant assails the order passed by the learned Single Judge dated 28.7.2021 in W.P.No.30399 of 2015.

3. The present respondent had filed the writ petition challenging the order dated 28.7.2014 and sought directions to make entry in the revenue register in respect of the land belonging to the original writ petitioner to an extent of 6.03 Acres in Survey No.67, Thulukanur Village, Attur Taluk, Salem District, as patta land.

4. The learned Single Judge disposed of the writ petition by passing the following order:

"22. In the result, the following orders are passed in



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this writ petition.

That the impugned order dated 28.07.2014 passed by the respondent is hereby quashed and the matter is remitted back to the respondent for reconsideration. While reconsidering the same, the respondent shall borne in mind the decree of the trial Court as referred to above as well as the judgment and decree passed by this Court in S.A.No.724 of 1989 dated 04.01.2001 and accordingly take the needful action to issue patta in respect of the land in question to and in favour of the petitioner. In this regard, if there is no other rival claim is made, there can be no further impediment for the respondent to accept the plea of the petitioner and to do the needful. The needful as indicated above shall be undertaken by the respondent within a period of six weeks from the date of receipt of a copy of this order."

5. According to learned State Government Pleader for the appellant, the said land in Survey No.67 is a pond. Patta cannot be issued in respect of the pond. The said aspect has not been



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considered by the learned Single Judge.

6. Learned counsel for the respondent relies upon the judgment and decree of the Civil Court.

7. It appears that the present respondent had filed a civil suit for declaration and permanent injunction in respect of the land in Survey No.67 to the extent of 5 Acres and 3 Cents. It was contended that there is a pond in it. The Trial Court decreed the suit. The State filed an appeal. The First Appellate Court reversed the decree of the Trial Court. The plaintiff filed a second appeal, bearing S.A.No.724 of 1989, before this court. This court allowed the second appeal by setting aside the judgment of the first Appellate Court and confirming the judgment and decree passed by the Trial Court. The Trial Court had concluded that the suit property is the personal property of the plaintiff. The same has been continuously enjoyed by the plaintiff. The government's right, title and interest in the suit property does not subsist.



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8. In view of the judgment of the civil court, no error has been committed by the learned Single Judge while passing the impugned order.

The writ appeal, as such, is dismissed. There will be no order as to costs. Consequently, C.M.P.No.15997 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

01.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

(sasi)

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