BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 02.11.2022

ORDER PRONOUNCED ON : 03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.14421 of 2013
and M.P(MD).Nos.1 to 3 of 2013
and M.P(MD).No.1 of 2014

G.Senthil Kumar ....Petitioner

Vs

1.The District Revenue Officer
Office of the District Revenue Officer
Tirunelveli
Tirunelveli District

2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Cheranmahadevi
Tirunelveli District

3.The Tahsildar
Nanguneri
Tirunelveli District

4.Krishnaperumal ....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to impugned order in Ni.Mu.Aa2/Si.Ma.No.16/2009 on the file of the Respondent No.1 dated 02.07.2013 signed on 09.07.2013 and quash the same as illegal.

For Petitioner : Mr.T.Pradeep

For R1 to R3 : Mr.B.Saravanan
Additional Government Pleader

For R4 : Mr.O.Sivakumar

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein under which he has reversed the order passed by the second respondent and has granted patta in favour of ancestor of the fourth respondent herein.

2.According to the petitioner, an extent of 1 acre and 24 cents in Survey No.143/5B and 143/5E situated at Marukalkurichi Village, Nanguneri Taluk, Tirunelveli District was belonging to one M.Perumal Nadar. After his death, his legal heirs have executed a registered sale deed in favour of the writ petitioner on 26.12.1995. Based upon the said sale deed, patta was transferred in the name of the writ petitioner by an order of the third respondent dated 12.01.2006.

3.The petitioner had further contended that the fourth respondent herein had filed an appeal before the second respondent on 22.01.2008 alleging that survey numbers in dispute originally belonged to one E.Perumal Nadar who is the grandfather of the fourth respondent herein. The second respondent after a detailed enquiry, arrived at a finding that the fourth respondent has not produced any records to establish the title of his grandfather over the property. He had further found that except UDR patta, 'A' register copy, no other documents were filed on the side of the fourth respondent herein. He had also found that before UDR proceedings, the revenue records were standing in the name of M.Perumal Nadar from whom the petitioner has purchased the property. Based on the said finding, the second respondent dismissed the appeal.

4.The petitioner had further contended that the fourth respondent has filed a revision before the first respondent herein. The first respondent without properly appreciating the mistake in the UDR proceedings, had proceeded to cancel the patta in favour of the writ petitioner and restored the said patta in favour of the legal heirs of E.Perumal Nadar who is the grandfather of the fourth respondent herein. Aggrieved over the same, the present writ petition has been filed.

5.The learned counsel for the petitioner had contended that the fourth respondent had approached the second respondent herein after a period of two years from the date of order passed by the third respondent herein and hence, the appeal is barred by limitation. The learned counsel had further contended that except the patta granted during the UDR proceedings, the fourth respondent could not produce any document to establish his title or possession over the disputed survey numbers. He had further contended that in case, if the fourth respondent is claiming a rival title, it is for him to approach the competent Civil Court as directed by the second respondent herein. He had further contended that the first respondent has not appreciated the revenue records produced for the fasli year 1370 which is relatable to the year 1960. As per the said revenue records, the name of M.Perumal Nadar is reflected in the Chitta. Therefore, the first respondent ought not to have relied upon the UDR proceedings and cancelled the patta that was granted in favour of the writ petitioner. Hence, he prayed for allowing the writ petition.

6.Per contra, the learned counsel appearing for the fourth respondent had contended that the properties originally belonged to one E.Perumal Nadar. He has got four sons namely (1). Aathi Narayana Nadar (2).Vanamamalai Nadar (3).Veerapathira Nadar (4).Ramalinga Nadar. The fourth respondent is the son of Aadhi Narayana Nadar. When the revenue records were standings in the name of the legal heirs of E.Perumal Nadar, the petitioner could not have purchased the properties from some other person namely M.Perumal Nadar in the year 1995. Hence, the sale deed in favour of the writ petitioner dated 27.12.1995 is not valid and it will not confer any title upon the writ petitioner. Since the petitioner had purchased the property from the person whose name is not reflected in the revenue records, the order of the first respondent herein is legally valid and the same may be sustained.

7.I have considered the submissions made on either side and perused the materials available on record.

8.The petitioner claims that the property belongs to one M.Perumal Nadar and he had purchased the same from the legal heirs of the said M.Perumal Nadar under a registered sale deed dated 27.12.1995. The petitioner had produced the Chitta relating to the fasli year 1370 which is equivalent to the year 1960. A perusal of the Chitta indicates that it is a joint Chitta in which the name of M.Perumal Nadar is reflected as Serial No.1. However, the fourth respondent herein had claimed that the properties belonged to one E.Perumal Nadar and after his death, it devolved upon his four sons and the fourth respondent is one of the grandsons of the said E.Perumal Nadar

9.On the side of the fourth respondent herein, the revenue records during the UDR proceedings have been relied upon in which the names of the legal heirs of E.Perumal Nadar are reflected. No document which is anterior to UDR proceedings have been produced on the side of the fourth respondent. No registered document has been produced to establish his right over the disputed survey numbers. The second respondent herein has arrived at a finding that only during UDR proceedings, the name of ancestor of the fourth respondent has been entered into and there are no previous revenue records. He has also arrived at a finding that prior to UDR proceedings, the revenue records were standing in the name of M.Perumal Nadar who is the vendor of the writ petitioner herein. Hence, this Court finds that the petitioner has made a prima facie case for grant of patta in his favour.

10.The first respondent herein has held that during the UDR proceedings, the name of ancestor of the fourth respondent is reflected. The writ petitioner had purchased the property from a different person whose name is not reflected in the revenue records in the year 1995. Based upon the findings, the first respondent has rejected the sale deed of the writ petitioner and proceeded to rely upon the revenue records that were created during the UDR proceedings.. This is nothing but putting the cart before the horse. Instead of analysing whether the entry of E.Perumal Nadar in the revenue records during the UDR proceedings is correct or not, the first respondent has proceeded to hold that the petitioner has purchased it from a person whose name is not reflected in the revenue records during the UDR proceedings. Hence, the said findings of the first respondent is not legally sustainable.

11.The petitioner claims that the property belongs to one M.Perumal Nadar and the fourth respondent claims that the property belongs to one E.Perumal Nadar. This issue has to be resolved only by a competent Civil Court. The petitioner has established that the revenue records prior to UDR proceedings were standing in the name of M.Perumal Nadar and only during

UDR proceedings had got mutated in the name of E.Perumal Nadar. When the fourth respondent has not explained how the name of E.Perumal Nadar got mutated during the UDR proceedings, this Court is of the view that the order of the first respondent herein reversing the order of the second respondent is not legally sustainable.

12.In view of the above said facts, the order impugned in the writ petition is set aside. The third respondent is directed to restore the patta in the name of the writ petitioner. However, the restoration of patta in the name of the petitioner will not in any way affect the rights of the fourth respondent in approaching the competent Civil Court to establish his title and possession over the survey numbers in dispute.

13.With the above observation, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

03.01.2023

Internet : Yes/No
Index : Yes/No
msa

To

1.The District Revenue Officer
Office of the District Revenue Officer
Tirunelveli
Tirunelveli District

2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Cheranmahadevi
Tirunelveli District

3.The Tahsildar
Nanguneri
Tirunelveli District

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.14421 of 2013
and M.P(MD).Nos.1 to 3 of 2013
and M.P(MD).No.1 of 2014

03.01.2023