



W.P(MD)No.9654 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9654 of 2021

and

W.M.P(MD)Nos.7400 & 7401 of 2021

Gurupanjabakasavan

... Petitioner

Vs

1.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

3.The Tahsildar,
Vembakottai Taluk,
Vembakottai, Virudhunagar District.

4.Perumal Samy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the original impugned order by the second respondent made in Na.Ka.No.A1/6071/10 dated 27.01.2011 and the proceedings of the first respondent made in Ne.Mu.A2/3211/2011 dated 06.01.2021 and quash the same.



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For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.M.S.Siddharthan
Additional Government Pleader
for R.1 to R.3

Mr.S.Parthasarathy for R.4

ORDER

Heard the learned counsel on either side.

2.The writ petitioner had obtained patta over 10 cents of land in the southern side of Survey No.846/1A2B on the strength of a sale deed executed by one Vellaithai. Questioning the same, the fourth respondent herein submitted a petition before the Revenue Divisional Officer, Sivakasi on 13.10.2010. Enquiry was conducted and the appeal filed by the fourth respondent was allowed on 27.01.2011. Aggrieved by the same, the petitioner herein filed revision before the District Revenue Officer, Virudhunagar District. After hearing both the parties and also the relevant records, the District Revenue Officer, Virudhunagar vide order dated 06.01.2021 confirmed the order passed by the Revenue Divisional Officer and dismissed the revision. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and



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called upon this Court to set aside the impugned orders and grant relief as prayed for.

4.Per contra, the learned Additional Government Pleader appearing for the official respondents as well as the learned counsel appearing for the contesting private respondents submitted that the impugned orders do not call for any interference.

5.I carefully considered the rival contentions and went through the materials on record. There is no dispute that one Vaiyagounder owned 210 cents on land in the subject survey number. The said Vaiyagounder had three sons namely, Periya Vellaichamy, Perumalsamy and Chinna Vellaisamy. There was partition among three brothers whereby the younger siblings were allotted 140 cents of land on the northern side while Periya Vellaichamy got 70 cents on the southern side. The petitioner herein is said to have obtained acquired title over the northern 140 cents of land through exchange. The question is whether the petitioner was justified in claiming 10 cents of land on the southern side and whether the patta originally issued in his favour was rightly set aside.



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6. According to the petitioner, the sale deed conveying 10 cents of land in the southern side was executed by one Vellaithai. The said Vellaithai was not the biological daughter of Periya Vellaichamy who had 70 cents of land on the southern side. She was born to one Alagarsamy the first husband of Kaliasammal. After the demise of Alagarsamy, Kaliasammal got married to Periya Vellaichamy and through the said wedlock, as many as 6 children were born. The fourth respondent is one of the said children. The endeavour of Vellaithai to get declaration that she is also one of the legal heirs of Periya Vellaichamy ended in vain.

7. More than anything else, what should clinch the issue against the writ petitioner and in favour of the fourth respondent is the outcome of O.S.No.56 of 2009 on the file of District Munsif Court, Sattur. The petitioner filed the said suit seeking the relief of declaration and permanent injunction. The fourth respondent herein figured as the second defendant. The suit was dismissed for non-prosecution on 27.11.2009. The petitioner does not appear to have taken any effort to have the same restored. When the declaration suit suffered dismissal for whatever reason, it is not open to the revenue authority to take any contra stand. In this case, the revenue authorities after conducting a detailed enquiry came to the conclusion that the vendor who executed sale deed dated 22.02.2008 did not have title to convey.



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8.The learned counsel appearing for the petitioner would place reliance on the decision of the Hon'ble Division Bench reported in **2011 (5) CTC 94 (Vishwas Footwear Company Limited Vs The District Collector & Others)**.

The Hon'ble Division Bench in the said decision had clearly held that contentious matters regarding title cannot be gone into by the revenue authorities. That is why the revenue authorities rightly relegated the petitioner to move the jurisdictional civil Court.

9.In my view, the only remedy open to the petitioner is to seek restoration of O.S.No.56 of 2009 on the file of District Munsif Court, Sattur. The impugned orders do not warrant any interference. This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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