BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5114 of 2014
and
M.P.(MD)No.1 of 2014

A.Kannuchamy ... Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai Taluk,
Sivagangai District.

2.The Revenue Divisional Officer,
Sivagangai Taluk,
Sivagnagai District.

3.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

4.C.Ramachandran

5.Lakshmi

6. Adhinamurugan

7.Ananthi ... Respondents

(R5 to R7 are suo motu impleaded vide order dated 03.07.2023 in W.P.(MD)No.5114 of 2014 by GRSJ)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st Respondent herein in his proceedings No.Pa.Mu.B.1-22458-2012 dated 27.07.2012 quash the same and consequently direct the respondents 1 to 3 herein to grant patta to the petitioner in respect of the land in Survey No.252/39 Maarathoor Village, Sivagangai Taluk, Sivagangai District.

For Petitioner : Mr.D.Sivaraman

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R1 to R3.
Mr.D.Shanmugaraja Sethupathy for R5 to R7.

ORDER

Heard the learned counsel on either side.

2.The revenue record in respect of the petition mentioned property stood in the name of one Kannuchamy, S/o.Ayyakkannu. It was changed in favour of the fourth respondent herein in the year 1995. This mutation was contested by the writ petitioner. According to the writ petitioner, the property was originally assigned in his favour way back in the year 1977; the fourth respondent / C.Ramachandran was none other than his cousin; taking advantage of his absence in the village, he gained access to the original records and by creating a bogus sale deed managed to transfer the patta in his name. Ramachandran instituted O.S.No.261 of 2004 on the file of Additional District Munisf Court, Sivagangai seeking the relief declaration and permanent injunction. The petitioner herein figured as the sole defendant. The suit was dismissed on 06.09.2005. Thereafter the petitioner filed an appeal before the Revenue Divisional Officer, Sivagangai who vide order dated 23.12.2009 set aside the mutation and directed the Tashildar, Sivagangai to make the changes and issue patta as per law. Aggrieved by the same, Ramachandaran filed revision before the District Revenue Officer, Sivagangai who vide order dated 27.07.2012 set aside the order passed by the Revenue Divisional Officer and directed that revenue record shall continue to reflect the name of Ramachandaran. Challenging the said order, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The Additional Government Pleader for the official respondents submitted that the impugned order does not call for interference.

5.During the pendency of the writ petition, Ramachandaran had passed away and his legal heirs have come on record. The learned counsel for the legal heirs of the deceased fourth respondent submitted that the petitioner cannot take advantage the dismissal of O.S.No.261 of 2004 on the file of Additional District Munsif Court, Sivagangai. He took me through the contents of the judgment and pointed out that the Civil Court had negatived not only the claim of the plaintiff / Ramachandaran but also the defendant (the writ petitioner herein). He also pointed out that for several years, Ramachandaran was in exclusive possession of the property and following his demise, his legal heirs have stepped into his shoes. He pointed out that the patta at present stands in the name of Lakshmi. He submitted that the purpose of issuing patta is to collect the land tax from the person who is physically and actually occupying the land. Since the materials on record clearly demonstrate that the fourth respondent was originally in occupation and his legal heirs are now in enjoyment of the property, no interference is warranted. If at all, he submitted that the matter can be re-enquired by the Revenue Divisional Officer, Sivagangai afresh. He pressed for dismissal of this writ petition.

6.I carefully considered the rival contentions and went through the materials on record. Even the record produced by the learned counsel for the legal heirs of the fourth respondent indicate that patta originally stood in the name of A. Kannuchamy, S/o.Ayyakkannu. I do not want to into the said issue as to whether said Kannuchamy, S/o.Ayyakkannu is the writ petitioner herein. The only question with which I am concerned is whether the revenue authorities were justified in transferring the patta in favour of Ramachandaran. The case of the contesting private respondents is that that one Kannuchamy, S/o.Ayyakkannu @ Ayyasamy of Neduvathavu sold the property in favour of Ramachandaran vide unregistered sale deed dated 16.05.1995. The said document was marked as Ex.A3 by Ramachandaran in O.S.No.261 of 2004. A copy of the same has been enclosed in the typed set of papers. The learned counsel for the petitioner points out that during the year 1995, the present Sivagangai District was known as Pasumpon Muthuramalinga Thevar District. He also produced the extract of review (1996 – 2001 of Tamil Nadu Legislative Assembly [Eleventh Assembly]). It is seen therefrom that the Government issued order for effecting changes in the names of certain districts only on 01.07.1997. I am more than satisfied that during the year 1995, Sivagangai District was not known as Sivagangai District. The fact that the sale deed relied on by Ramachandaran contains such a name is a *prima facie* indication that it is of doubtful validity. In any event, the jurisdictional Civil Court had declined to accept the said document. I fail to understand as to how on the strength of such a document changes in revenue records could have been made.

7.Another contention advanced by the learned counsel for the petitioner also appeals to me. Admittedly, Ramachandaran filed a suit for declaration and permanent injunction and lost. Adverse finding has been given against him. Before the District Revenue Officer, Sivagangai, the petitioner herein in his counter affidavit had made specific references to the aforesaid judgment and the reasons set out therein. I fail to understand as to how the District Revenue Officer could have ignored the findings set out in the judgment of the jurisdictional Civil Court. It is well settled that while the decision of the revenue authority will abide by the outcome of the civil proceedings, the converse cannot be true. The findings of the jurisdictional Civil Court are binding on the revenue authority. Section 14 of the Tamil Nadu Patta Passbook Act, 1983 is as follows:-

> *"**14. Bar of suits.** - No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any patta pass book that is maintained under this Act or to have any such entry omitted or amended:*
> *Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with any such declaration."*

Therefore, the revenue authority could not have directed that the revenue record will continue to reflect the name of Thiru.Ramachandaran. For these twin reasons, the order impugned in the writ petition is set aside. The revenue record will show the name of A.Kannuchamy, S/o.Ayyakkannu. I consciously refrain from rendering any finding if the the petitioner is the said Kannuchamy. Since adverse finding was rendered against the petitioner also in O.S.No.261 of 2004, it is for the petitioner to get them vacated.

8.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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Sivagangai District.

2.The Revenue Divisional Officer,
Sivagangai Taluk,
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G.R.SWAMINATHAN, J.

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