



W.P(MD)No.1781 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1781 of 2015

and

M.P.(MD)No.1 of 2015

K.C.Gurusamy

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Collectorate,
Madurai-625 020.

2.The Tahsildar,
Madurai North Taluk,
Madurai-625 020.

3.R.Subatharai Ammal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the entire proceedings in Na.Ka.No.1820/2012/N dated 19.1.2015, on the file of the 1st respondent herein and to quash the same.

For Petitioner : Mr.M.Arjunvarma
for M/s.Lajapathi Roy & Associates

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 & R2
: no appearance for R3



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ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 & R2. Though the third respondent has entered appearance through counsel, there is no representation on her behalf.

2. The third respondent applied to the Revenue Divisional officer, Madurai and sought issuance of patta in her name in respect of the petition mentioned property. Patta stood in the name of the petitioner in his capacity as managing trustee of the trust. The case of the third respondent was accepted and the impugned order dated 19.01.2015 was passed in her favour. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner pointed out that the property belonged to one Pandian and the said Pandian had executed a Will dated 17.06.2001 in favour of the petitioner. The third respondent on the other hand claimed title on the strength of the sale deed bearing Document No. 8401/2010 said to have been executed by the legal heirs of the said Pandian. The petitioner thereupon filed O.S.No.256 of 2011 on the file of the District Munsif Court, Madurai Taluk, against the third respondent and others



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impeaching the very validity of the said sale deed dated 15.07.2010.

An exparte decree was passed in favour of the petitioner on 22.11.2013. It was set aside and the suit was decreed as prayed for 23.12.2021 after full contest. The third respondent has filed an appeal. But no interim order has been granted in her favour as on date. In the mean while, the third respondent filed W.P. (MD)No.1895 of 2020 before this Court for effecting mutation of patta in her favour. The petitioner herein figured as fourth respondent. After hearing both sides, the writ petition was dismissed on 19.06.2023. Paragraph Nos.3 & 4 of the said order read as follows:-

“3. The learned counsel appearing for the fourth respondent, who was subsequently impleaded, produced the judgment in O.S.No.256 of 2011 which was the suit filed by the fourth respondent and his son as trustee of Milaka V.Pandian Charitable Trust. The suit was filed for declaration that the suit property belongs to the Trust and to declare the sale deed executed in favour of the petitioner herein as null and void and not binding on the fourth respondent and other plaintiff therein and for consequential injunction restraining their possession being disturbed. By judgment dated 23.12.2021, the learned District Munsif, Madurai, was pleased to decreed the suit as prayed for. There has been no challenge to this decree.

4. In the light of the above, the petitioner, whose sale deed has been declared as null and void, cannot seek a mandamus to change the patta in her name. Accordingly, this writ petition is dismissed. No costs.”



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G.R.SWAMINATHAN, J.

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4. In the light of the foregoing reasons, one can safely conclude that the position that prevails as on date is that the writ petitioner's title has been recognised, whereas the third respondent's claim has been negated. Only if the third respondent succeeds in the appeal said to have been filed by her, the issue can be revisited. The order impugned in the writ petition is set aside. I make it clear that the rights of the parties will abide by the outcome of the first appeal. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

Index : Yes / No
Internet : Yes/ No
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To
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