



W.P(MD)No.19152 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.09.2023

Pronounced On : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19152 of 2015

and

W.M.P.(MD)Nos.2 & 3 of 2015

1.Mani @ Sunbramanian

2.M.R.Venkatachalam

3.R.Amsa Valli

... Petitioners

Vs

1.The District Revenue Officer cum
District Additional Magistrate,
Tiruchirappalli-620 001.

2.The Revenue Divisional Officer,
Trichirappali-620 001.

3.The Tahsildar,
Trichy Taluk Office,
Trichy-620002.

4.M.Kandasamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the record of the first respondent in its proceedings in Na.Ka.No.Aa6/9373/2014, dated 10.09.2015 and quash the same.



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For Petitioner : Mrs.J.Maria Roseline
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 to R3

: Mr.G.Rajagopalan
Senior Counsel
for Mr.Niranjan S.Kumar for R4

ORDER

The writ petitioners challenge the impugned proceedings dated 10.09.2015 issued by the District Revenue Officer, Trichirappalli allowing the revision petition filed by the fourth respondent herein (M.Kandasamy). Kandasamy had purchased 14.22 acres in Old T.S.No.4/2, Ward L, Block No.21, Trichirappalli under registered sale deeds during 2002-2004. The said survey number comprised an extent of 69.27 acres and stood in the name of “27 Adhi Pattadharars” (Chinnaian Muthiriayar and 26 others). Kandasamy traces his title to 12 of them. 4.46 acres of land out of 14.22 acres was acquired by the Highways Department for road widening. The issue of disbursing compensation is pending before the jurisdictional civil Court. The petitioners and others have objected to disbursing compensation to Thiru.Kandasamy.

2. The writ petitioners trace their title to one of the Adhi



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Pattadharars namely Valliammai. From the said Valliammai, one Thangavelu Solayar traced his title. The said Thangavelu Solayar is none other than the father of the first petitioner Mani @ Subramanian. Thangavelu Solayar executed settlement deed dated 20.03.1982 in favour of the first petitioner conveying an extent of 2400 square feet. The second petitioner M.R.Venkatachalam claims title over 3,000 square feet of land in the said survey number under sale deed dated 20.03.1982 executed by the said Thangavelu Solayar and the first petitioner herein. The third petitioner claims title over 3000 square feet of land in the said survey number under sale deed dated 20.03.1982 executed by the said Thangavelu Solayar and the first petitioner herein.

3. The case of the petitioner is as follows:-

In the year 1968, the old Survey No.4/2 was reclassified as T.S.No.5 and T.S.No.8. Applications were made to the Tahsildar in the year 1999 for issuance of separate patta by effecting sub division of the lands purchased by them. Vide order dated 29.05.2001, T.S.No.5 was sub-divided as T.S.Nos. 5/1, 5/2, 5/3, 5/4, 5/5, 5/6, 5/7, 5/8, 5/9, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/16, 5/17, 5/18, 5/19, 5/20, 5/21, 5/22 & 5/23 and separate pattas were ordered to be issued. Earnest Raja,



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vendor of Kandasamy, felt aggrieved by the same. He filed

O.S.No.567 of 2002 before the District Munsif Court, Trichirppalli and vide decree dated 31.01.2003, the proceedings of the Tahsildar dated 29.05.2001 were declared to be illegal and void. This decree was obtained behind the back of the petitioners herein. The revenue officials alone were shown as defendants. Based on the said decree, the Revenue Divisional Officer, vide order dated 17.03.2004 set aside the proceedings dated 29.05.2001 passed by the jurisdictional Tahsildar who was directed to hold fresh enquiry and conducted field inspection. Aggrieved by the said order, the petitioners and others filed appeal before the District Revenue Officer, who vide order dated 24.12.2009, relegated the parties to move the Tahsildar individually. Accordingly, the petitioners submitted representations before the Tahsildar, Trichirappalli. Since action was not taken thereon, the petitioners and others filed W.P.(MD)Nos.13664 to 13670 of 2009 for enforcing the earlier order of the Tahsildar dated 29.05.2001. The Tahsildar, Trichirppalli was directed to dispose of the representations after giving opportunity to all



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the parties concerned. Pursuant to the said direction, after filing of contempt petitions by the petitioners, the Tahsildar, Trichirappalli vide order dated 23.07.2011 declined to effect subdivision and issue separate patta in favour of the petitioners herein. On 30.12.2012, the Tahsildar, Trichirappalli passed order on Kandasamy's application dated 06.12.2002 by subdividing T.S.No.5 into T.S.No.5/1 & T.S.Nos.5/24 to 5/36. T.S.No.5/1 was subdivided as T.S.No.5/1A, T.S.No.5/1B & T.S.No.5/1C. Patta was issued in favour of Kandasamy in respect of T.S.No.5/1A, 5/1B, T.S.No.5/1C, T.S.Nos.5/24 to 5/32. Questioning the order dated 23.07.2011 passed by the Tahsildar, the petitioners filed revision before the Revenue Divisional Officer, Trichirappalli. The Revenue Divisional Officer, Trichirappalli took note of all the materials on record including the order dated 30.12.2012 passed by the Tahsildar and set aside the same and directed restoration of the original position. In other words, all the subdivisions were nullified and the revenue record was to reflect the names of 27 adhi pattadharars in respect of T.S.No.5. Direction was also given to consider the claims of all the interested persons afresh.



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Questioning the said order dated 26.03.2014 passed by the Revenue Divisional Officer, Kandasamy filed revision before the District Revenue Officer, Trichirappalli. The District Revenue Officer allowed the revision and set aside the order dated 26.03.2014 passed by the Revenue Divisional Officer, Trichirappalli and restored the position that prevailed immediately prior to passing of the said order. Liberty was given to the aggrieved parties to approach the jurisdictional civil Court.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. She pointed out that it is beyond dispute that both the parties trace their title to the "adhi pattadharars". While the petitioners would trace their title to Valliammai, the fourth respondent would trace his title to "12 adhi pattadharars". There is nothing on record to show that there was any partition decree subdividing 69.27 acres in the Old T.S.No.4/2. Therefore, the order passed by the Revenue Divisional Officer on 26.03.2014 was justified and did not warrant interference. The learned counsel also would point out that the proceedings in favour of the fourth respondent are based on the decree dated 31.01.2003 made in O.S.No.567 of 2002 on the file of



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the District Munsif Court, Trichirappalli. She laid considerable emphasis of the fact that this decree which set aside the earlier proceedings dated 29.05.2001 issued by the Tahsildar, Trichirappalli was passed behind the back of the petitioners herein. The revenue officials herein alone were shown as defendants. The petitioners whose rights were directly affected were not made parties. Such a decree obtained by Earnest Raj vendor of Kandasamy was a nullity. Such a decree could not have been the basis for issuance of any subsequent proceedings. Her other contention was that in the very nature of things, the revenue authorities could not have taken up the task of going into disputed question of title. She relied on the Hon'ble Division Bench decision reported in **2011 (5) CTC 94 (Vishwas Footwear Company Ltd., Vs. The District Collector, Kancheepuram)**. She called upon this Court to set aside the impugned order and grant relief as prayed for.

5. The learned Additional Government Pleader appearing for the official respondents as well as the learned senior counsel appearing for the contesting respondent submitted that the impugned order is well reasoned and that it does not call for interference. They pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the



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materials on record. Before going into the merits of the matter, I must remark that the conduct of both the parties are unsatisfactory. Admittedly, the revenue record reflected the names of as many as 27 persons as joint pattadhars originally. Therefore, the petitioners and few others could not have obtained individual patta in their names without notice to all the interested parties. Thus, the order dated 29.05.2001 passed by the Tahsildar, Trichirappalli does not *prima facie* appear to be in order. The conduct of Earnest Raj is worse. He filed O.S.No.567 of 2002 before the District Munsif Court, Trichirappalli for nullifying the said proceedings without impleading the pattadharars. The suit was decreed exparte on 31.01.2003. Even though the Tahsildar's order passed on 29.05.2001 was set aside, the writ petitions were filed in 2009 for enforcing the same. The writ petitions were disposed of on 22.12.2009. In fact, the order was passed after putting the District Administration as well as the Trichirappalli Corporation on notice. They were represented by the Special Government Pleader as well as the Standing Counsel. The fact that the Tahsildar's order had been set aside was not brought to the notice of the writ Court. The first petitioner herein filed W.P.(MD)No.13668 of 2009. The prayer in the writ petition is as follows:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to consider the



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representations of the petitioner ending with representation dated 21.08.2009 to give effect to the order passed by the fourth respondent vide proceedings in Tho.Mu.T.K.N.K.TS.8974/99 dated 29.05.2001 for issuance of separate patta to the petitioner in respect of 0.0233.0 sqmt. of land comprised in T.S.No.L/21/5/15 in K.Abishekarapuram Village, Tiruchirappalli Taluk and District.

The order reads as follows:-

“Heard Mrs.J.Maria Roseline, the learned counsel appearing for the petitioners, Mr.Pala Ramasamy, the learned Special Government Pleader, appearing for the respondents 1 to 4 and Mr.P.Srinivas for the 5th respondent.

2. At this state of the hearing of the writ petitions, the learned counsel appearing on behalf of the petitioners had submitted that it would suffice, if the fourth respondent is directed to dispose of the representation, dated 21.08.2009 on merits and in accordance with law, within a specified period.

3. The learned Special Government Pleader appearing on behalf of the respondents, has no objection for such an order being passed by this Court.

4. In view of the submissions made by the learned counsels appearing on either side, the fourth respondent is directed to dispose of the representation dated 21.08.2009, on merits and in accordance with law, after giving an opportunity of hearing to the petitioners, as well as to the other parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order. The petitioners are directed to furnish a copy of the representation, dated 21.08.2009, to the fourth respondent, along with a copy of this order. However, it is made clear that this Court by this order, has not expressed any opinion on the merits of the matter.

5. Accordingly, the writ petition is disposed of with the above direction.”



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This is because, the material facts were not brought to the notice of this Court during the relevant time and because the authorities had bothered to verify if all the interested parties and stakeholders were before them, the present situation would not have arisen. Be that as it may, the two facts are beyond dispute.

(a) The writ petitioners on the one hand and the fourth respondent on the other are not tracing their respective titles to a common predecessor-in-title.

(b) Even a simple arithmetic calculation would show that each adhi pattadharars would have held 2.57 acres.

The petitioners admittedly claim only a total extent of 8,400 square feet (2400+3000+3000). The petitioners trace their title to only one “adhi pattadharar” namely Valliammai. The fourth respondent had purchased 14.22 acres. He was issued with patta only for 12.21 acres. Out of which, 4.46 acres had already been acquired by the highways department. The fourth respondent is still left with 7.75 acres. The first petitioner claims on the basis of the settlement deed dated 20.03.1982. The second and third petitioners on the strength of two sale deeds dated 20.03.1982. The schedules set out in the respective deeds contain four boundary description. I compared the schedules set out in the three documents relied on by the writ petitioners herein. All the plots conveyed in favour of



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the respective writ petitioners have been described as lying to the south of the land of “Govindaraj Vagaiyara” and north of 20 feet road. Plot numbers have also been given as one of the boundaries. The contention of the petitioner's counsel is that the original position reflecting the names of all the “27 Adhi Pattadharars” must be restored would have found favour with me, if the deeds of title relied on by the petitioners purported to convey undivided share in their favour. Having taken definite plots in the larger extent of 69.27 acres in T.S.No.4/2 it does not lie in the mouth of the petitioners to advance the aforesaid contention. The petitioners are laying claim on definite and defined plots of land. It is for them to identify the same. It is open to the petitioners herein to apply to the Tahsildar for identification. As and when such applications are submitted, it would be the duty of the Tahsildar, Trichirappalli to consider the same. Survey exercise shall be undertaken and every effort shall be made to identify the plots conveyed in favour of the respective writ petitioners. Of-course, if that involves going into the title disputes, then, the petitioners shall be informed accordingly and asked to go before the jurisdictional civil Court for relief.

7. Courts will have to adopt a pragmatic and realistic approach. The



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total extent of the petitioner's claims comes to 8400 square feet. On the other hand, the fourth respondent is having registered sale deeds in his favour and the total extent of his purchase comes to 14.22 acres. Patta was issued in his favour for 12.21 acres. 4.46 acres had been acquired and he is still left with an extent of 7.75 acres. It would be most unfair and unreasonable to hold his rights to ransom. At the same time, the contentions advanced by the writ petitioners cannot be brushed aside. I cannot lose sight of the fact that decree was obtained by the fourth respondent's vendor behind the back of the petitioners. Hence, I made it clear that the fourth respondent will have to give some kind of undertaking in the interest of justice. The case was adjourned on more than one occasion. In fact, three writ petitions were pending before this Court. The writ petitioner entered into some kind of settlement with two of the writ petitioners. What was left for adjudication was only W.P.(MD)No.19152 of 2015. The fourth respondent appeared before this Court in person and stated that he will earmark and keep apart the land in T.S.No.5/41 un-encumbered. He stated that he will not alienate T.S.No.5/41. This undertaking of the fourth respondent is placed on record. This undertaking will hold good till the issue raised in this writ petition is resolved finally. It is open to the petitioners herein to



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communicate this order to the jurisdictional sub registrar so as to ensure that third party rights are not created. The order impugned in the writ petition is sustained. Subject to the aforesaid liberty to the writ petitioners and direction to the jurisdictional Tahsildar and by recording the undertaking of the fourth respondent, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.10.2023

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

- 1.The District Revenue Officer cum
District Additional Magistrate,
Tiruchirappalli-620 001.
- 2.The Revenue Divisional Officer,
Trichirappali-620 001.
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G.R.SWAMINATHAN, J.

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