



W.P.(MD) Nos.4944 of 2016 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)Nos.4944, 2548, 2549, 2550, 2557, 2596, 2619 to 2621 of 2016
and
W.M.P (MD) Nos.2257 to 2259, 2261, 2262, 2303, 2323 to 2326, 4454 of
2016

Govindarasu Konar

... Petitioner
in W.P(MD) No.4944/2016

Vs.

1.The Revenue Divisional Officer,
Thanjavur.

2. The District Revenue Officer,
Thanjavur.

3. Kasinathan

4. Ramu

... Respondents



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PRAYER in W.P.(MD) No.4944 of 2016 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to Tha.Pa.44/2015 U(2) dated 02.11.2015 confirming the order of the first respondent pertaining to Tha.Pa.140/2011 A-5, dated 17.08.2014 transferring patta in favour of respondents 3 and 4 in respect of the punja land comprised in survey No.111/15 and 92/13 admeasuring 0-5.50 and 0.09.0 ares situated in Chozhapuram, Thanjavur District and to quash the same as unlawful and arbitrary.

For Petitioner : Mr.P.Sesubalan Raja
(in all the writ petitions)

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader
for R1 and R2
Mr.S.Deenadhayalan for R3 and R4
(in all the writ petitions)

COMMON ORDER

This batch of writ petitions arises out of a common order dated 02.11.2015 of the second respondent confirming the order dated 17.08.2014 of the first respondent.



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2. The respective petitioner asserts that the respective land parcel originally belonged to one Govinda Konar. After his death, his son, Krishna Konar, and brother, Muthusamy Konar, conveyed the properties to and in favour of the respective petitioner's predecessor-in-title under registered sale deeds. Each writ petitioner asserts title on the basis of a specific registered sale deed executed and registered under separate document numbers. Pursuant to such conveyance, the respective petitioner asserts that he is in possession and enjoyment of the property without interruption.

3. The respective petitioner further states that a notice was received from the first respondent to appear for an inquiry in relation to proceedings initiated by respondents 3 and 4. In course of proceedings before the first respondent, the respective petitioner states that the third respondent alleged that the relevant parcels of property were owned by the grandfather of respondents 3 and 4, Govinda Konar. On such basis, they requested the first respondent to mutate the patta. The said request was accepted by the first respondent under order dated 17.08.2014.



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Consequently, the respective petitioner filed a revision petition before the second respondent. The revision petition was rejected by order dated 02.11.2015, which is impugned herein.

4. Learned counsel for the petitioner submits that the impugned order is unsustainable inasmuch as the second respondent failed to take into consideration the conveyance in favour of the respective petitioner's predecessor-in-title under registered sale deeds. Instead, he contends that the impugned order was passed entirely on the basis of the death certificate and legal heirship certificate produced by respondents 3 and 4. By virtue of such impugned order, he submits that the right, interest and title acquired under the registered sale deeds has been set at naught. In case respondents 3 and 4 intend to assail the conveyance in favour of the respective petitioner's predecessor-in-title, learned counsel submits that the jurisdictional civil court should be approached and not the revenue authorities.

5. In response to these submissions, learned counsel for respondents 3 and 4 submits that the assertion of the respective petitioner



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cannot be countenanced. The settlement register, in the pre-UDR stage, did not reflect the names of the respective petitioner although they assert that they purchased the property between the late 1960's and early 1970's, which predates the UDR by a number of years. The next contention of learned counsel is that the respective petitioner should approach the civil court since disputed questions of fact are involved. Until then, learned counsel submits that the joint patta issued in the names of respondents 3 and 4 should not be disturbed. Learned counsel further submits that respondents 3 and 4 are in possession of the lands in respect of which these petitions have been filed and that any interference with the impugned order would have a cascading effect on their possession of the lands.

6. The question that falls for consideration is whether the impugned order calls for interference. The second respondent examined the classification of the relevant survey numbers in terms of the relevant village accounts in the pre-UDR period. The second respondent also examined the UDR records relating to the relevant survey numbers. After noticing that the name of Govinda Konar was reflected in the pre-UDR period, the impugned



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order was passed after taking into account and accepting the legal heirship certificate indicating that respondents 3 and 4 are the grandsons of Govinda Konar. The respective petitioner relies upon the registered conveyances in favour of their predecessor-in-title and on such basis, asserts that the legal heirs of Govinda Konar, who inherited the property upon his demise, conveyed the property and ceased to own the same. In the impugned order, the second respondent has failed to consider this contention or take into account the implications of such registered documents. Undoubtedly, the second respondent cannot decide questions of title and should have relegated the parties to a civil court if respondents 3 and 4 challenged the validity of the conveyances in favour of the respective petitioner's predecessor-in-interest. Put differently, if the conveyance in favour of the predecessor-in-interest of the respective petitioner is valid, respondents 3 and 4 cannot claim any rights over the property by virtue of being the grandsons of Govinda Konar. Because the impugned order was issued entirely on the basis of the legal heirship certificate, the impugned order is unsustainable.



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7. For reasons aforesaid, these writ petitions are allowed and the order impugned is quashed. Consequently, the patta shall stand restored to the position as per UDR records. It is open to the parties to institute civil proceedings before the jurisdictional civil court and such court may decide all matters raised therein uninfluenced by this order. It is also open to the parties to re-approach the revenue authorities on the basis of the outcome of such civil proceedings. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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NCC :No
Internet :Yes
Index :No
PKN

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