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W.P.No.13457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.13457 of 2023

Tmt.T.Mangai

... Petitioner

Vs.

1. The District Revenue Officer,
Tiruttani Taluk,
Tiruvallur District.

2. The Tahsildar,
Tiruttani Taluk,
Tiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent order in Na.Ka.4345/2021/A8 dated 25.03.2022 and consequential order passed by the 1st Respondent in Na.Ka.2367/2022/A2 dated 31.01.2023 and quash the same and directing the respondents 1 and 2 to grant a patta to infavour of the petitioner in respect of the land of 50675 Sq.ft, in Survey No.300/1A1A1A1 Harichandrapuram Village, Tiruvalangadu-Tiruttani Taluk, Tiruvallore District.



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For Petitioner : Mr.Mohan
Senior Counsel
for Mr.G.Mutharasu
For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader

ORDER

Mr.M.R.Gokul Krishnan, learned Additional Government Pleader takes notice on behalf of the Respondents.

2. The above Writ Petition has been filed for the following relief:-

The Petitioner has approached this Court putting forward the following case. It is his case that the properties measuring an extent of 8 Acres and 74 Cents in Survey No.300/1 Harichandrapuram Village, Tiruvalangadu-Tiruttani Taluk, Tiruvallore District was originally purchased by Chinna Mallan Shahib from one Periyathai Ammal under a registered Sale Deed dated 18.04.1979. The Revenue Records were mutated in the name of Chinna Mallan Shahib. After his demise, the names of his family members were mutated in the Revenue Records. The Petitioner's father one V.Elumalai had purchased the said property from Ameeda and six (6) others who are the legal heirs of the deceased Chinna Mallan Shahib under two Sale Deeds dated



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20.01.1985 and 22.01.1985. After his purchase and the mutation of the Revenue Records in his name, the Petitioner's father had formed a layout of residential / non-residential plots and had obtained necessary approval from the Commissioner, Panchayat Union, Thiruvallangadu. Elumalai sold the Plot Nos.53 and 91 to Parthasarathy and Tirunavukkarasu under a registered Sale Deed dated 30.05.1988. When the Petitioner's father had prepared the Sale Deeds and presented it for registration, the same was not registered by the Sub Registrar on the ground that the entire extent of 8 Acres and 74 Cents had been attached under Section 3 of the Tamil Nadu Protection of Interest of Depositors Act, 1997 hereinafter referred to as “TNPID Act, 1997” against one M/s.Southern Enterprises. The Petitioner's father had pointed out that the properties comprised in Survey No.300/1 had not been attached and there appeared to be some misunderstanding. However, the Sub-Registrar refused to consider the same. This prompted the Petitioner's father to file W.P.No.18030 of 2010 before this Court and this Court had directed the said Elumalai's father to obtain orders from the TNPID Court. Based on the above directions, the Petitioner's father had filed O.A.No.04 of 2011 before the TNPID (Special Court), Chennai seeking a direction to the Sub-Registrar. He passed away all of a sudden on 24.07.2011 leaving behind the Petitioner, his siblings and mother. All of them are brought on record in the said Original



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Application. Ultimately, the claim was dismissed on the ground that the Petitioner's father had failed to prove his claim. This Order was taken up on challenge to this Court in C.M.A.No.2646 of 2011. By an order dated 20.07.2012, the Order passed by the TNPID (Special Court), Chennai was set aside and it was remitted back for fresh consideration. The Sub-Judge had passed an Order recognizing the Petitioner's son as a legal heirs of the deceased, Elumalai entitled to acquire the petition subject property but has also come to a conclusion on the materials that the Petitioner's property was never attached as per G.O.Ms.No.10 dated 03.01.2002 and that apart, there was no sub-division of S.No.300 in Harichandrapuram Village. The order also directed the sub-registrar to register any deed of conveyance in respect of the said property, if it complies with the mandatory requirements of stamp duty, registration fees etc. The Petitioner would submit that he and his family members had partitioned the property and an extent of 50,675 sq.ft. which covered Plot Nos.1 to 20 and Shop No.01 in the approved Layout No.5271/87 was allotted in favour of the Petitioner. From the said date the Petitioner has been in absolute and effective possession of the same. The Patta Passbook No.1365 was issued on 02.09.1988 in favour of the Petitioner's father. The Petitioner would submit that he has made an application to the Zonal Deputy Tahsildar, Thiruttani Taluk for grant of Patta



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vide application dated 25.09.2021 and since there was no action, the Petitioner has made an application before the 2nd Respondent on 09.11.2021, however the 2nd Respondent did not take any action and therefore the Petitioner has filed W.P.No.25590 of 2021. By an Order dated 03.12.2021, this Court had directed the concerned Officials to dispose of the representation after notice to counter parties within a period of twelve (12) weeks.

3. It is the contention of the Petitioner that the 2nd Respondent did not comply with the Orders of this Court by conducting an enquiry but has proceeded to pass the Impugned Order dated 25.03.2022. Aggrieved by which, the Petitioner is before this Court. The Respondents have not filed any counter but have however filed certain documents.

4. Heard Mr.Mohan, learned Senior Counsel appearing for G.Mutharasu, learned counsel for the Petitioner and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader for the Respondents.



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5. A perusal of the Impugned Order indicate that by a Decree in O.S.No.209 of 1993, the District Munsif Court, Thiruttani had declared one Sathyendra Kumar to be the owner of the property and the Special Court under the TNPID Act had directed the registration of the partition deed executed by the Petitioner and others. Therefore, it is the contention of the 2nd Respondent that when there are two conflicting orders, parties have to approach the Civil Court to set right their disputes. The Suit in O.S.No.209 of 1993 was a Suit filed by one Sathyendra Kumar against the Sub Registrar Thiruverkadu and the relief claim was to make an entry in the registration book maintained by the Sub Registrar Thiruverkadu that the said Sathyendra Kumar is the owner of the property. The Petitioners herein are not parties to the above suit. The suit relates to 3 schedule of properties.

'A' Schedule of Property

S.No.194 measuring to an extent of
10.38 Acres at No.54
Harichandrapuram Village.

'B' Schedule of Property

S.No.300 measuring to an extent of
17.48 Acres at No.54
Harichandrapuram Village.



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'A' Schedule of Property

S.No.194 measuring to an extent of
10.38 Acres at No.54
Harichandrapuram Village.

'C' Schedule of Property

S.No.301/3 measuring to an extent of
1.33 Acres at No.54
Harichandrapuram Village.

S.No.301/4 measuring to an extent of
1.54 Acres at No.54
Harichandrapuram Village.

S.No.293/3 measuring to an extent of
1.64 Acres at No.54
Harichandrapuram Village.

S.No.298/6 measuring to an extent of
1.32 Acres at No.54
Harichandrapuram Village.

6. The Petitioner's father had challenged the attachment proceedings by filing a petition in O.A.No.04 of 2011 before the TNPID (Special Court), Chennai, which is a proceeding much after the Judgement in O.S.No.209 of 1993. Though the Original Application in O.A.No.04 of 2011 was dismissed ultimately this Court had allowed the appeal filed against the Order of TNPID (Special Court), Chennai in C.M.A.No.2646 of 2011 by Order dated 20.07.2012. This Court made the following observations:-

“7. But, a perusal of the order passed in O.A.No.4 of 2011 reveals that the District Revenue Officer, in his evidence, has stated that only by looking at the documents available in his office, he could give evidence



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whether sub-division was effected at the relevant point of time in Survey No.300 as Survey No.300/1 or not. But, for reasons best known to the learned Special Judge, without even verification of documents, the said O.A. has been rejected. Under such circumstances, this Court is of the opinion that the order dated 14.07.2011 passed in O.A.No.4 of 2011 cannot be allowed to stand and it is accordingly set aside. The matter is remitted back to the learned Special Judge, under Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997 and the appellants are at liberty to adduce evidence and mark documents to show that they have been in possession of the property in question continuously from the date of purchase and other relevant records with regard to their possession of the property in addition to the sale deeds. The District Revenue Officer concerned can also be given an opportunity to produce records with regard to the date of sub-division of the survey number 300 or in case, till date, if there is no such sub-division, the same can also be dealt with by the learned Special Judge and the issue can be decided accordingly. The Civil Miscellaneous Appeal is disposed of accordingly. No costs.”

7. Ultimately after remand, the application was allowed and the Special Judge under the TNPID Act had passed an Order on 03.08.2016, wherein the learned Judge has observed as follows:-

“35. The petitioners have adduced convincing and cogent oral and documentary evidence to show that the deceased 1st petitioner had acquired the right of title over the petition mentioned property by virtue of sale deed dated 22.01.1985 under Ex.95 and that he had been in possession and enjoyment of the petition mentioned property right from the date of its purchase and that Sathyendrakumar was never in possession and



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enjoyment of the petition mentioned property and that the petition mentioned property is not the subject matter of attachment under G.O.Ms.No.10 dated 03.01.2002 and that there was no sub division in respect of S.No.300 in Harichandrapuram Village at the time of issue of G.O.Ms.No.360 dated 03.04.2001 and G.O.Ms.No.10 dated 03.01.2002”

8. This Order has not been put to challenge by the Respondents therein which also includes the 1st Respondent herein who is the 1st Respondent in the proceedings before the Special Court. Ultimately, the learned Judge had held as follows:-

“37. Point No.9:- This Court has given findings in Point Nos.1 to 5 in favour of the petitioners, if any deed of conveyance of title pertaining to the property in S.No.300/1 situated in Harichandrapuram Village, Tiruttani Taluk, Thiruvallur District is presented to the 3rd respondent for registration, it is the bounden duty of the 3rd respondent to get such deed of conveyance of title registered, provided, the petitioners 2 to 6 have complied with the mandatory requirements such as payment of stamp duty, the registration fee etc., as per the relevant provisions of Indian Registration Act, 1908.”

9. Therefore, in the light of the clear finding of the Special Court in a Judgment which is passed much after the decree in Suit in O.S.No.209 of 1993 and where the arguments set out in the Impugned Order has been rejected, the Respondents have not made out any case for sustaining the Order passed by the 1st Respondent. Further, the 1st Respondent has not sought to challenge the order passed in O.A.No.04 of 2011.



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WEB COPY 10. In the light of the above, the Writ Petition is allowed.

The Impugned Order of the 2nd Respondent is quashed and the consequential Order passed by the 1st Respondent is quashed and the 2nd Respondent is directed to issue Patta to the Petitioner in respect of the subject property within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
rgm

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