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W.P.No.14660 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04..07..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.14660 of 2023

and

W.M.P.No.14141 of 2023

Navamani Ammal

..... Petitioner

-Versus-

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam, Chennai 600 025.

2.The District Revenue Officer,
District Collector Office,
Dharmapuri District.

3.The District Registrar,
Taluk Offices Building,
Dharmapuri, Dharmapuri District.

4.The Tahsildar,
Palacode Taluk,
Dharmapuri District.

5.The Sub-Registrar,
Marandahalli Village,
Palacode Taluk,
Dharmapuri District.

6.Sumathi

7.R.Murugan

.... Respondents



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Petition filed under Article 226 of the Constitution of India, praying to issue a *Writ of Certiorarified Mandamus* calling for the records of the 2nd respondent in Order bearing No.Ni.Mu.3246/2022/Pa2 dated 09.12.2022 and to quash the same as illegal and consequently, forbear the respondents 1 to 5 from acting upon the order of the 2nd respondent bearing No.Ni.Mu.3246/2022/Pa2 dated 09.12.2022 in any manner.

For Petitioner

Mr.V.B.Gowtham Thelak

For Respondent (s) : Mr.B.Vijay,

*Addl. Government Pleader for
RR1, 3 & 5*

Mr.P.Sathish,

*Addl. Government Pleader for
RR 2 & 4*

Mr.C.Umashankar for

Mr.M.Selvam for R5

No Appearance for R7

ORDER

Challenge in this writ petition is to the order passed by the 2nd respondent bearing No.Ni.Mu.3246/2022/Pa2 dated 09.12.2022 mutating patta in respect of the land measuring 0.32.5 Hectares in S.No.700/1 of Sikkathoranapettam village, Palacode Taluk, jointly in the names of the Murugesan Udayar and Govindasamy Udayar sons of Ayyakannu as it was standing in chitta prior to the UDR.

2.1. The case of the petitioner in brief is that his father-late Munusamy



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Chettiar owned vast extent of lands in Sikkathoranapettam village, Palacode Taluk. She and her sister-Parvathammal jointly held the lands measuring an extent of 0.32.50 Hectares comprised in S.No.700/1. In 1985, Patta vide Patta No.1017 and UDR A-Register was issued for the said land in her and her sister's name. Thereafter, his sister-Parvathammal bequeathed her share in S.No.700/1 to him and died without any issues. She has been in uninterrupted possession and absolute enjoyment of the said lands in S.No.700/1. Adangal Extract for the Patta No.1017 also prove that he has been cultivating the said lands for the past 50 years. Adjacent to his land in S.No.700/1, the 6th respondent owns land in S.No.297/1 at Athimutlu village, Palacode Taluk, Dharmapuri District.

2.2. While so, in 2022, he received a summon dated 21.06.2022 from the 2nd respondent for enquiry on the petition filed by the 6th respondent seeking mutation of revenue records in his name in respect of 0.32.50 Hectares of land in S.No.700/1, Sikkathoranapettam Village, Palacode Taluk, Dharmapuri District. He personally appeared on 12.07.2022 for enquiry before the 2nd respondent and requested for copies of the petition filed by the 6th respondent and supporting documents, if any, filed along with that petition to know the fact that on what basis he made a claim to the title of the property. The 2nd



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respondent, however, has not furnished with copies of any documents as requested. Therefore, the petitioner had to move this court by way of writ petition in W.P.No.22783 of 2022 challenging the summons and the proceedings of the 2nd respondent on the grounds that he was not served with vital documents and that the 2nd respondent had no original jurisdiction over the said proceedings and this court was pleased to direct the 2nd respondent by order dated 26.08.2022 to transfer the files to the 4th respondent to conduct enquiry as per Section 10 of the Patta Pass Book Act. While he was expecting summons from the 4th respondent as per the order of this court, to her shock and surprise on 23.12.2022 he was served with an order bearing No.Ni.Mu.3246/2022/Pa2 dated 09.12.2022 from the 2nd respondent whereby the 2nd respondent ordered for mutation of patta in respect of the land in S.No.700/1 in the name of one Ayyakkanu's sons Murugan Udayar ad Govindasamy Udayar. It is this order which under challenge in this writ petition. Based on the order of the 2nd respondent impugned in the writ petition, on 29.12.2022, the 6th respondent conjointly with her siblings entered into a registered sale deed vide Doc.No.3022 of 2022 dated 29.12.2022 on the file of the 5th respondent in respect of 80 cents out of 0.32.5 Hectares of land in



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S.No.700/1 in favour of the the 7th respondent.

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2.3. The grievance of the petitioner is that all her attempts to make the 2nd respondent to understand the illegality committed in the matter only proved fruitless. In those circumstances she moved a contempt petition in Cont.P.No.348 of 2023 seeking to punish the 2nd respondent for his wilful disobedience of the orders of this court dated 26.08.2022 made in W.P.No.22783 of 2022. This court by order dated 10.03.2023 dismissed the contempt petition recording as if the 2nd respondent complied with the orders of this court dated 26.08.2022. The 2nd respondent has not, in fact, complied with the order of this court dated 26.08.2022 and therefore, she is prepared to move a sub-application in the said contempt petition. In the meanwhile, she had come to realize that the respondents 6 and 7 are hurriedly attempting to create further encumbrances over her property in S.No.700/1. She also received summons bearing No.Na.Ka.1161/2023/A1 dated 06.04.2023 and 19.04.2023 from the 4th respondent for enquiry on the application filed by the 7th respondent for further mutation of patta in respect of the lands in S.No.700/1. Hence, this writ petition challenging the impugned order on the grounds that (i) orders impugned in the writ petition has been passed in utter violation of the natural



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justice and against the directions of this court merely on the basis of the entries found in A-Register when there was a clear dispute over the title to the property in question and (ii) patta was granted in the name of a dead person in 2022.

3. The 5th respondent filed counter affidavit inter alia contending that on the petition given by the 6th respondent seeking to cancel the wrong entry of ownership in respect of land in S.NO.700/1 measuring an extent of 0.32.5 Hectares, to 2nd respondent-the District Revenue Officer, conducted an inquiry and by his proceedings dated 09.12.2022 he concluded that as the patta holders of the subject land had not produced any registered documents for the said land, based on the reports of the Village Administrative Officer ordered for mutation of patta as per the Chitta prior to UDR records in the names of Murugesu Udayar and Govindasamy Udayar Son of Ayyakanu. The 2nd respondent communicated the above proceedings. Whenever a registered document holder executes document for sale/settlement or power of attorney and transfer the ownership of the property in the name of other person, ownership of such land will be changed in the records such as Encumbrance Register. Without any such registration, the respondents 1, 3 and 5 have no authority to change the ownership of a property. If the competent civil court passes orders deciding the rights of the parties over the subject land necessary



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changes will be carried out in the registration records as per the orders of the civil court.

4. The 6th respondent filed counter affidavit and additional counter affidavit inter alia contending that an extent of 80 cents of land in S.No.700/1 was originally owned by one Arumuga Udayar, the great-great grandfather of the father of the 6th respondent and his name only was entered in the re-survey and resettlement registers of the year 1905. Patta vide patta No.246 for the land was also standing in the name of the said Arumuga Udayar. After the demise of the said Arumuga Udayar, his son Kuppu Udayar was in possession and enjoyment of the said land and he died leaving behind one Ranga Udayar as his sole heir. The said Ranga Udayar during his life time executed a Will dated 06.09.1993 in favour of his daughter Rajammal registered as Doc.No.8 of 1993. After the demise of Ranga Udayar, his daughter-Rajammal was in possession. Adangal in respect of the subject property for the fasli year 1932 was only in the name of the said Rajammal. The said Rajammal died leaving behind her sons Murugesu Udayar and Govindasamy Udayar, the father of the 6th respondent, as his legal heirs and they were in joint possession and enjoyment of the subject property. Patta vide patta No.227 for the subject property was standing in the joint name of Murugesu Udayar and Govindasamy Udayar.



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Adangal for the fasli year 1378 and 1380 stood in the name of the said Murugesu Udayar and patta stood in the joint name of Murugesu Udayar and Govindasamy Udayar.

5. The said Murugesu Udayar died unmarried and her (6th respondent) father died leaving his wife-Poonngavanam and daughters (1) Vasuki, (2) Devika, (3) Santhi and (4) Sumathi as his legal heirs and after his demise of her (6th respondent) father, she and her sisters were in joint possession and enjoyment of the subject property. The petitioner omitted to add the other three legal heirs of Govindasamy Udayar. The names of the petitioner and her sister could have been wrongly entered during UDR updation in 1984-85 based on the alleged possession of the land in S.No.700/2. The names of Paravathammal and Navamani Ammal would have been added by mistake in respect of the land in S.No.700/1. Therefore, the 6th respondent made a representation to the 2nd respondent seeking to correct the wrong entries made in respect of patta for the subject property along with the supporting documents. The 2nd respondent, after affording opportunity to either party, by his proceedings ordered for change of patta in the name of Govindasamy Udayar the father of the 6th respondent and Murugesu Udayar. The writ petition has been filed to collect evidence for the suit in O.S.No.57 of 2019 filed by the petitioner against one



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Shenbagavalli, wife of Murugan, the purchaser of a portion of the property from the 6th respondent on 07.12.2016. Since the said Shenbagavalli also purchased the land in S.No.700/2A from the sister of Navamani Ammal viz., Parvathammal. The land of the petitioner is sandwiched between the lands purchased by Shenbagavalli on one side and the land owned by Murugan on the other side. The said Shenbagavalli has left 10 feet passage from the road for the writ petitioner to reach her land at S.No.700/2B. But, the petitioner claims more extent. Hence, 6th respondent opposed the writ petition.

6. No counter affidavit has been filed by the respondents 2 and 4.

7. This court has heard Mr.V.B.Gowtham Thelak, learned counsel appearing for the petitioner, Mr.B.Vijay, learned Additional Government Pleader appearing for the respondents 1, 3 & 5, Mr.P.Sathish, learned Additional Government Pleader appearing for the respondents 2 & 4 and Mr.C.Umashankar, learned counsel appearing on behalf of Mr.M.Selvam, learned counsel on record for the 6th respondent.

8. The learned counsel for the petitioner would submit that the petitioner has been in possession and enjoyment of the subject land, which fell to her share, from 1985 onwards and patta was also issued in her name. The learned counsel also brought to the notice of this court that in the sale deed in respect of



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adjacent land in S.No.297 of 1 of Athimutlu village executed by the 6th respondent and her sisters on 09.12.2010 executed in favour of G.Rathinam Son of Govindan and Rani w/o G.Rathinam which was registered as Doc.No.2684 of 2010 on the file of the 5th respondent, one of the boundaries of the property was shown as the property belonged to the petitioner. Therefore, now, taking advantage of the fact that the name of the 6th respondent's great great grandfather was found entered, the 6th respondent in order to create title over the subject property made a representation to the 2nd respondent for mutation of revenue records. Earlier when this court had specially directed the 4th respondent to conduct an enquiry and pass orders on the representation of the 6th respondent, without any opportunity the impugned order came to be passed.

9. Per contra, the learned counsel appearing for the 6th respondent vehemently opposed the writ petition. According to him, till 1985 the name of the 6th respondent alone was entered in the adangal register. The 6th respondent alone has been in possession and enjoyment of the subject property. Mistake has crept in in UDR proceedings during updation in 1985. The petitioner's name could have been wrongly entered during UDR updation and same was



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rightly set right by the 2nd respondent by his proceedings dated 09.12.2022.

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10. When this court made a query how the 2nd respondent could pass the impugned order when the direction of this court was to transfer the inquiry to the 4th respondent, Mr.P.Sathish, the learned Additional Government Pleader appearing for the respondents 2 and 4 was not able to justify the order impugned in the writ petition.

11. This court has carefully considered the rival submissions.

12. At the out set, a careful perusal of the available documents would clearly go to show that mutation of revenue records was effected only in 2022 in the name of a person who is no more and died way back in 1985. Thereafter, based on such mutation, the 6th respondent, her mother and sisters transferred their title in favour of the 7th respondent R.Murugan son of Raman.

13. It is the specific case of the petitioner that as per UDR the petitioner and her sister were in possession of the property. The petitioner has also produced the revenue records standing in the name of herself and her sister to substantiate her stand.

14. It is relevant to note here that when the notice issued by the 2nd respondent was put to challenge by the petitioner before this court in W.P.No.22783 of 2022, this court by order dated 26.08.2022 directed the 2nd



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respondent to transfer the entire records to the jurisdictional Tahsildar, the 4th respondent and directed the Tahsildar to conduct an inquiry in terms of Section 10 of the Patta Passbook Act and pass appropriate orders and pass appropriate orders after affording an opportunity of hearing to the petitioner-Navamani Ammal as well as the aggrieved persons if any, including Mrs.Sumathi, the 6th respondent herein, within a period of twelve weeks thereafter. The relevant portion of the order of this court dated 26.08.2022 reads as follows:-

“7. As rightly submitted by the learned counsel for the petitioner, the Jurisdictional Tahsildar has power to modify the entries in the Patta. Hence this Court directs the first respondent to transfer the entire records to the jurisdictional Tahsildar within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same the jurisdictional Tahsildar shall conduct enquiry in terms of Section 10 of the Patta Passbook Act and pass appropriate orders after affording an opportunity of hearing to the petitioner as well as the aggrieved persons if any, including the second respondent, within a period of twelve weeks thereafter.”

15. Despite the specific directions given to the 2nd respondent to transfer the matter to the 4th respondent, the 2nd respondent himself passed the impugned order on 09.12.2022 mutating the patta in the name of the father and paternal



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uncle of the 6th respondent who are no more in utter violation of the directions of this court and the father of the 6th respondent died as early as in 1985.

Thereafter, based on the orders of the 6th respondent along with her mother and sisters sold the subject land in favour of the 7th respondent by sale deed dated 29.12.2022 which was registered as Doc.No.3022 of 2022 on the file of the 5th respondent. The 6th respondent and her mother and sisters traced title to the subject property only based on the 2nd respondent's order which is impugned in the writ petition. No where in the said sale deed the 6th respondent, her mother and sisters whispered that they were ever in possession and enjoyment of the subject property. This would clearly indicate that taking advantage of the ancestor's name originally entered in the A-Register in the year 1900, an attempt had been made to include the name of the father of the 6th respondent and her paternal uncle by the 6th respondent and others and agreeing with the contentions of the 6th respondent and others, the 2nd respondent passed the order impugned in the writ petition.

16. On a careful perusal of the available records, this court is of the view only by revenue proceedings, the 6th respondent along with her mother and sisters made an attempt to create title to the property in their favour. This view is fortified by the fact that in 2010 when the 6th respondent and her other



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family members dealt with their land in S.No.297 of 1 of Athimutlu village

which is adjacent to the subject property situated in the neighbouring village,

northern boundary was shown as “land belonged to Navamani Ammal”. The

said Navamani Ammal is the petitioner herein. Further, adangal receipt

produced in the form of typed set of papers also shows that from 1985

onwards, the possession of the subject land is with the petitioner. These

documents *prima facie* show that the 6th respondent was never in possession of

the subject property and as a matter of fact, the 6th respondent and her family

members wanted to establish their right and title to the subject property only by

way of mutation of revenue records. These facts were not at all taken into

consideration by the 2nd respondent at the time of passing the impugned order.

Furthermore, this court had directed the 2nd respondent only to transfer the

inquiry to the 4th respondent - Tashildar with a further direction to the 2nd

respondent Tahsildar to conduct inquiry in the matter and pass orders thereof,

however, the 2nd respondent himself passed the order impugned in the writ

petition which in the considered opinion of this court is not sustainable in the

eye of law and the same is liable to be quashed. If at all the 6th respondent and

her family members wish to establish their right and title to the subject property

based on the entry in the A-Register in favour of their forefathers, they can very



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well establish their right and title to the subject property on proper oral and documentary evidence before the appropriate civil court having jurisdiction. In the event any such suit is filed by either the 6th respondent along with her family members or any one of her family members, the civil court having jurisdiction shall decide such suit on the basis of evidence let in on either side without being influenced by any of the observations made by this court hereinabove .

In the result, the writ petition is allowed. The impugned order dated 09.12.2022 passed by the 2nd respondent is set aside. No costs. Consequently, the order of interim stay granted by this court on 05.05.2023 stands vacated and connected WMP stands closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

04..07..2024

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam, Chennai 600 025.



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- 2.The District Revenue Officer,
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