



W.P.No.19727 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	06.03.2024
PRONOUNCED ON	04.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.19727 of 2018
and
WMP.Nos.23170 and 23171 of 2018

V.A.Krishnamurthy

... Petitioner

Vs.

1.The District Revenue Officer
Vellore.

2.The Tahsildar
Vaniyambadi

3.V.A.Umapathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings No.Ni.Mu.D3/22974/2017 dated 29.05.2019 issued by the 1st respondent, quash the same and direct the 1st respondent to restore the proceedings of the 2nd respondent in NKD.No.7853 of 1999 dated 09.11.1999.



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For Petitioner : Mr.R.Subramanian
For Respondents : Mr.P.Satish, Addl.Govt.Pleader
for R1 and R2

R3- No appearance.

ORDER

This Writ Petition is filed against the Order dated 29.05.2018 issued by the 1st respondent and seeks to quash the same and to direct the 1st respondent to restore the proceedings of the Tahsildar in NKD No 7853 of 1999 dated 09.11.1999.

2. The dispute is about the issue of patta for the 1.5 acres of punjai land in S.No 241/2, Vellakuttai Village Madura, Vaniyambadi Taluk. The 4.82 acre of land, buildings and open wells in the Survey No 239, 241/2 and 295 belonged to one Periyasamy Gounder. P.Appavu Gounder, Annammal, The petitioner and the 3rd respondent entered into a Partition Deed dated 27.03.1986 to divide the ancestral land among themselves. P.Appavu Gounder is the son of Periyasamy Gounder. Annamal is the wife of P.Appavu Gounder. The petitioner and 3rd respondents are the children of



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P.Appavu Gounder and Annammal. By the above partition deed, 2.32 acre and house buildings went to the 3rd respondent while the subject 1.5 acre went to the petitioner and his parents.

3. The petitioner is employed and was living outside on account of his employment. The 3rd respondent was living in the village and taking care of the parents. After the death of the father, the 3rd respondent got 0.5 acre of the subject 1.5 acre settled in his name vide a settlement deed dated 13.11.1997. Later he got a separate patta for an extent of 1 acre of land subdivided from the subject 1.5 acre land vide D A (s) No 14/99-2000 dated 25.05.1999 without notice to the petitioner.

4. Upon knowing the above, the petitioner filed a suit in O.S.No 181 of 1998 before DMC Vaniyambadi against the 3rd respondent for declaration of title for the subject 1.5 acre land. A judgment decree was passed declaring the title in favour of the petitioner on 12.10.1999. The petitioner produced the copy of the above decree declaring the title of the subject land and got the 2nd respondent cancelled the separate patta issued in the name of the 3rd respondent on 25.05.1999 in D A (s) No 14/99-2000



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vide his fresh proceedings in NKT 7853 dated 09.11.1999.

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5. The 3rd respondent filed O.S.No 199 of 1998 before District Munsif Court, Vaniyambadi against the petitioner and others for declaration in respect of 1 acre of land out of the subject 1.5 acre land. The suit was dismissed for default on 01.04.2003. The same was not restored and has become final. The petitioner sold 75 cents from the subject 1.5 acre land to one Vajira Naidu. The 3rd respondent again filed a suit in O.S.No 33 of 2008 before District Munsif Court, Vaniyambadi against Vajra Naidu and others for declaration and injunction in respect of the 1 acre land out of the subject 1.5 acre land claiming title on account of the settlement deed dated 13.11.1997. After contest, the suit was dismissed on 29.01.2011. The 3rd respondent filed an appeal in A.S. No 37 of 2011 before the Sub Court, Vaniyambadi, challenging the decree and judgment. The appeal was dismissed by decree and judgment dated 04.09.2012. It was held that the plaintiff had failed to establish the settlement deed dated 13.11.1997.



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6. The 3rd respondent challenged the proceedings of the 2nd respondent in NKD No 7853 of 1999 before the Revenue Divisional Officer, Thirupattur. Vide proceedings M.M (A6)/3323/2017 dated 31.10.2017, the Revenue Divisional Officer set aside the proceedings of the 2nd respondent in NKD No 7853 of 1999 dated 09.11.1999, after recording a finding that there is a dispute of title and therefore the parties have to approach the Civil Court and establish their title.

7. The petitioner challenged the above proceedings of the Revenue Divisional Officer in M.M (A6)/3323/2017 dated 31.10.2017. Statements were recorded from the petitioner and the 3rd respondent in the impugned proceedings. The VAO filed a statement stating that 75 cents of the land was sold to Vajra Naidu by the petitioner. The Deputy Tahsildar had filed a detailed report stating that the Civil Suits in OS No 181 of 1988 and O.S.No 199 of 1998 have come to an end and 75 cents each out of the subject 1.5 acres land is in respective possession and enjoyment of the petitioner and Vajira Naidu and that parties can go to civil court to take possession.



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8. The 1st respondent, in the impugned proceedings Ni.Mu.D3/22974/2017 dated 29.05.2018, has confirmed the order dated 31.10.2017 in proceedings M.M(A6)/3323/2017 passed by the Revenue Divisional Officer. While passing the order, he has recorded the fact of the judgment decree in favour of the petitioner and the suit filed by the 3rd respondent been dismissed. Aggrieved by the apathy, this writ petition is filed.

1. The statement filed by the Deputy Tahsildar in the impugned proceedings before the 1st respondent is unambiguous with regard to the title and possession of the subject land of 1.5 acre in Survey No 241/2 by the petitioner before selling 75 cents from out of the subject land of 1.5 acres to Vajira Naidu who is in possession of that 75 cents thereafter. With the declaration of title in favour of the petitioner in OS. No 181/1998 and the dismissal of the suit OS. No.199 of 1998 filed by the 3rd respondent, the title stood clearly in favour of the petitioner before selling 75 cents of land out of the subject 1.5 acre.

2.



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10. Further, the dismissal of suit in OS.No. 33 of 2008 and appeal Suit in A.S.No.37 of 2011 on merits further reinforces the title of petitioner to the subject land and validated the subsequent sale of 75 cents of land to Vajira Naidu. From the conduct of the 3rd respondent by way of insincere participation in the suit proceedings, it is clear that his intention is only to prolong and sustain the litigation in respect of the subject land of 1.5 acre.

11. From the foregoing discussions, it is clear that the 1st respondent erred in concluding that the title of the subject land is disputed. The 1st respondent ought to have noted that the judicial orders passed in multiple suit proceedings and the connected appeal proceedings have settled the title in favour of the petitioner. The statement of the Deputy Tahsildar in the impugned proceedings had appraised the correct position of the subject matter. In the situations, I agree with the petitioner's counsel that the 1st respondent has passed the impugned proceedings Ni.Mu.D3/22974/2017 dated 29.05.2018 mechanically without application of mind and therefore the same is liable to be set aside.

12. In view of the foregoing reasonings, this Writ Petition is allowed.



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The impugned order dated 29.05.2018 passed by the 1st respondent in Ni.Mu.D3/22974/2017 is quashed. The 1st respondent is directed to restore the proceedings of the 2nd respondent in NKD No 7853 of 1999 dated 09.11.1999. No costs. Consequently, connected miscellaneous petitions are closed.

04.06.2024

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
nvsri

To

1.The District Revenue Officer
Vellore.

2.The Tahsildar
Vaniyambadi

J.NISHA BANU, J.



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