



W.P.No.26496 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08..04..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.26496 of 2023

and

W.M.P.No.25901 of 2023

Sivaprakasa Pandara Madam,
Represented by its Power Agent,
Mr.S.Rozario Sundar Raj,
Son of Mr.Susairaj, No.732, 6th Main Road,
Gomathipuram, Madurai – 20.

..... Petitioner

-Versus-

1.The District Reveuue Officer,
Collectorate, Thiruvarur District.

2.The Revenue Divisional Officer,
Thiruvarur Taluk, Thiruvarur District.

3.The Tahsildar,
Thiruvarur Taluk,
Thiruvarur District.

4.D.Sasikumar

..... Respondents



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Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records of the proceedings in Ne Mu 9035/2018/A1 dated 25.07.2023 on the file of the 1st respondent to quash the same as illegal and without any jurisdiction.

For Petitioner : *Mr.Sharath Chandran*
For Respondent (s) : *Mr.U.Baranidharan,*
AGP for RR1 to 3
Mr.V.Raghavachari,
Senior Counsel for
Mr.D.Prabhu for R4

ORDER

Challenging the order of the 1st respondent dated 25.07.2023 made in Ne.Mu.9035/2018/A1 whereby the 1st respondent allowed the revision filed by the 4th respondent thereby set aside the order of the 2nd respondent canceling the patta issued in favour of the 4th respondent and granting patta in favour of the 4th respondent.

2. The petitioner is a private madam. It is represented by its authorized power agent. It is the case of the petitioner that it is the absolute owner of 84 cents of vacant land comprised in T.S.No.889, 890 & 890A, Block No.18, Ward No.1, situated at Thiruvarur Town, Taluk and District. Besides the above land, the petitioner madam owns several other properties in Thiruvarur Taluk and District. During 2012, the 4th respondent interfered with the enjoyment of the



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above mentioned properties on the premise that patta in respect of the same was mutated in his name. The petitioner came to know that the 4th respondent applied for patta before the 3rd respondent-Tahsildar in respect of subject matter of land and that the 3rd respondent by his proceeding dated 08.03.2024 granted patta in favour of the 4th respondent. Thereupon, the petitioner madam challenged the mutations effected in favour of the 4th respondent by way of appeal before the 2nd respondent on the grounds that mutation was effected behind its back and the 4th respondent had no title, however he fraudulently got patta in his name. The 2nd respondent by his order dated 23.07.2018, allowed the appeal preferred by the petitioner, set aside the order of the 3rd respondent and cancelled the patta on the ground that since there was a civil dispute pending between the parties issue of title over the subject matter of property could not be decided and it is for the civil court to decide and give a finding as to the title. As against the order of the 2nd respondent, a revision was filed by the 4th respondent before the 1st respondent-District Revenue Officer. During the pendency of the revision petition, the 4th respondent produced a certified copy of the so-called sale deed dated 15.11.1974 to establish his title. Relying upon such document as well as the Will said to have been executed by the then owner*, the 1st respondent revisional authority, allowed the revision petition filed by the 4th respondent and set aside the order of the 2nd respondent and



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restored the order of the 3rd respondent granting patta in favour of the 4th respondent. Hence, the present writ petition.

3. Heard both sides.

4. The order of the 1st respondent has been challenged mainly on the ground that the suit was originally filed based on the so-called agreement of sale, however, the alleged sale deed had never seen the light of the day. Only before the revisional authority such deed was produced for the first time as if it was the sale deed dated 15.11.1974.

5. Mr.Sharath Chandran, the learned counsel for the petitioner, would submit that the said document is a forged one and it was only a mortgage deed and in that document only the last page was appended to project as if it was a sale deed in favour of the predecessor-in-title. He would therefore submit that the order passed by the 1st respondent is not sustainable either in law or on facts.

6. Per contra, Mr.V.Raghavachari, the learned senior counsel appearing for the 4th respondent would contend that the so-called document relied upon by the petitioner to contend that there was a mortgage itself is the forged and fabricated document and that the 4th respondent has submitted his explanation for the non-production of the original sale deed in the suit proceedings at the relevant point in time. According to the learned senior counsel, 4th defendant



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was able to trace out such document only after the death of his father and therefore, when the title of the property stood in the name of the 4th respondent, the order of the 1st respondent does not require any interference at all.

7. I have considered the rival submissions and perused the entire materials made available before this court.

8. Admittedly, the suit between the parties in O.S.No.115 of 2018 is pending on the file of the District Munsif, Thiruvarur. The 4th respondent originally filed the suit on the basis of the so-called agreement said to have been executed in favour of the petitioner madam by Xavier Mary Sarojini in respect of the subject matter of property. Now it is the stand of the 4th respondent that sale deed itself was registered in his favour in 1974.

9. Be that as it may, now the petitioner denied the title of the 4th respondent and raised a serious cloud over the title. When the civil suit is admittedly pending between the parties, granting patta in favour of the 4th respondent would not arise, that too, by the revisional authority. The order of the 1st respondent suffers by reason that the 1st respondent relied upon the Will, without the same being established in the manner known to law and recorded his finding as to the title over the property in favour of the 4th respondent assuming the power of the civil court. No such power of the civil court is conferred upon the 1st respondent.



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10. In view of the fact that there is already a civil suit pending in respect of the subject matter of property, this court is of the view that the finding recorded by the 1st respondent as to the title of the 4th respondent based on the alleged Will is nothing but illegal and perverse and the same will not bind on any of the parties and the patta proceedings shall be initiated afresh subject to the result of the civil suit in O.S.No.115 of 2018 pending on the file of the District Munsif, Thiruvarur.

11. Though this court has found that the order of the 1st respondent is illegal and perverse and the same has to be set aside, the learned counsel for the petitioner brought to the notice of this Court that the petitioner was able to download a document from the official website of the respondent department. The learned counsel for the petitioner demonstrated before this court that as per the QR Code in the Website of the respondents, the document relating to the Mortgage Deed of 1974 is found registered as Doc.No.2935/1974 and not the so-called sale deed projected by the 4th respondent.

12. Since the same has been demonstrated before this Court, let the Inspector General of Registration file a report in this regard as to how the digitized Document No.2935 of 1974 shows as Mortgage Deed and whereas the document produced by the 4th respondent shows as if it was a sale deed.

13. In the meanwhile, the Inspector General of Registration shall file a



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report as to the nature of the document entered in the Book-I as Document No.2935 of 1974.

In the result, the writ petition is allowed and the order impugned in the writ petition is set aside with the above directions. No costs. Consequently, connected WMP is closed.

Post this matter on 25.04.2024 for reporting compliance.

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

08..04..2024

To

- 1.The District Reveuue Officer, Collectorate, Thiruvarur District.
- 2.The Revenue Divisional Officer,Thiruvarur Taluk, Thiruvarur District.
- 3.The Tahsildar, Thiruvarur Taluk, Thiruvarur District.

Copy to:

- 1.The Inspector General of Registration, Department of Registration,
100, Santhome High Road, R.A.Puram, Chennai 600 028.



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N.SATHISH KUMAR.J.,
kmk

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