



W.P. No.27109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.27109 of 2023

1.Sengoda Gounder
2.Subramani Gounder

. . Petitioners

Vs

1.The District Revenue Officer
District Collectorate
Namakkal District

2.The Tahsildar
Tiruchengode Taluk
Namakkal District

3.G.Saraswathi

4.Nallammal
(Respondents 3 and 4 are impleaded vide
order of this court dated 05.04.2024 in
W.M.P. No.35687 of 2023)

. . Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 2nd respondent herein to carry out the corrections in the revenue records in respect of S. No.88/3, Kottapalayam Village, Tiruchengode Taluk, Namakkal District and restore joint



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patta No.318 as directed by the 1st respondent vide order in Pa.Mu.26296/2014/O1 dated 25.05.2018.

For Petitioner : Mr.M.R.Thangavel

For Respondents : Mr.G.Ameedius,
Govt. Advocate for R1 & R2
Mr.R.Subramanian for R3 and R4

ORDER

This writ petition has been filed for a direction to the 2nd respondent to carry out corrections in the revenue records in respect of S. No.88/3, Kottapalayam Village, Tiruchengode Taluk, Namakkal District and restore the joint patta No.318 as directed by the 1st respondent vide order in Pa.Mu.26296/2014/O1 dated 25.05.2018.

2. The main grievance of the writ petitioner is that the RDO has set aside the sub divisions, therefore, the same has been cancelled by the Tahsildar in respect of Survey No.88/3. It is an admitted fact that the RDO has passed an order taking note of the judgment of the civil court in O.S. No.736 of 2004 wherein the suit was decreed in favour of the petitioners, which was filed for bare injunction by the respondents 3 and 4. The crux of the issue between the



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parties is with regard to a cart track in S. No.88/3.

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3. Now the Second Appeal in S.A. No.302 of 2012 filed as against the judgment and decree of the trial courts reached finality, wherein this court has held that the existence of a cart track in S. No.88/3 has not been established, thereby granted injunction in favour of the plaintiffs in O.S. No.736 of 2004. Therefore, when the appellate court in second appeal has conclusively held that there is no cart track in S. No.88/3, now relying on the order of the Tahsildar, which was passed based on the judgment of the trial court, which has been reversed in the appeal, the said order cannot be sustained in the eye of law. Only the judgment which has reached finally and concluded between the parties has to be taken note of. As the second appeal reached finality and has not been challenged, the findings recorded in the second appeal alone will prevail and bind on the parties. Therefore, the order passed by the Revenue Divisional Officer based on the judgment of the trial court cannot be given effect. Therefore, the direction as sought by the writ petitioners cannot be issued in this writ petition. Accordingly the writ petition is dismissed. No costs.

4. It is now as stated by the writ petitioners that they have one cent of land in the said survey in respect of which they have also filed a suit for



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declaration in O.S. No.98 of 2023 on the file of District Munsif, Tiruchengode.

In such view of the matter, it is for the writ petitioners to establish their right in a pending suit.

05.04.2024

Index : Yes / No

Speaking/non speaking order

Neutral Citation : Yes/No

Asr

To

1.The District Revenue Officer

District Collectorate

Namakkal District

2.The Tahsildar

Tiruchengode Taluk

Namakkal District

3.The Government Pleader

High Court, Madras

N. SATHISH KUMAR, J.

Asr



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