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W.P.No.21685 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.21685 of 2019

T.Sathasivam

..

Petitioner

v.

1. District Collector of Thiruvallur
2. The Thasildhar
Ambattur
Chennai 600 053
3. The Commissioner of Thiruvottiyur
Thiruvottiyur Municipality
Chennai 600 019
4. Chennai Metropolitan Development Authority
Egmore, Chennai 600 008
5. The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai 600 003
(R5 impleaded vide order dated 14.08.2019
in WMP.23712/19 in WP.21685/19)



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6. The Tahsildar
Tiruvottiur Taluk Office
Tiruvottiur, Chennai
(R6 suo motu impleaded vide
order dated 12.09.2023 in WP.21685/19)

7. Arulmigu Sri Kattuponniammal Temple
rep by Trustee Balakrishnan
No.3, Bharathi Street
Ponnamman Nagar
Tiruvottiur, Chennai 600 019
(R7 impleaded vide order dated 22.11.2023
in WMP.31587/23 in WP.21685/19) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus, directing the respondents
herein to demolish the illegal constructions made by the unknown persons
and thereby handover the property comprised in R.S.No.582/1, measuring
about 4.52 Acres situated in Thiruvottiur Village, Thiruvallur District.

For Petitioner :: Mr.S.Kartik

For Respondents :: Mrs.V.Yamuna Devi
Special Government Pleader
for R1 to R3
Mr.C.N.Vinobha
Standing Counsel for R4
Mr.E.C.Ramesh
Standing Counsel for R5
Mr.S.Balamurugan
Government Advocate for R6



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ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This is a peculiar case where the petitioner has come forward with the writ petition seeking to direct the respondents to demolish the illegal constructions made by unknown persons and thereby handover the property comprised in R.S.No.582/1, measuring about 4.52 acres situated in Thiruvottiyur Village, Thiruvallur District.

2. The case of the petitioner, in brief, as stated in the affidavit filed in support of the petition is as follows:-

The property measuring an extent of 4.56 acres in R.S.No.582/1 in Tiruvottiyur Village belonged to one Mr.Semu Gramani, the grandfather of the petitioner. After the death of the petitioner's grandfather on 20.06.1930, the property was inherited by the petitioner's father by name Mr.S.Thiyagarajan as his only son. Stating that the petitioner's father was originally paying the property tax, but later the respondents did not collect the property tax and therefore, the petitioner's father submitted a



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representation. Since the representation of the petitioner's father was not considered, the petitioner's father filed a writ petition to consider the said representation. The said writ petition was allowed and the respondents were directed to consider the representation. Even thereafter, the respondents did not consider the representation of the petitioner's father and therefore the petitioner's father filed a contempt petition in C.P.No.331 of 2000. In the meanwhile, the petitioner's father died intestate on 15.01.2012 leaving behind the petitioner-son, the petitioner's mother by name Emayavalli and six others. During the lifetime of the petitioner's father, several unknown persons have illegally trespassed and constructed buildings and therefore the petitioner submitted a representation to the respondents to demolish the illegal construction made by the unknown persons. The grievance of the petitioner is that the respondents are required to demolish the illegal construction made in the property of the petitioner and to handover possession of the property to the petitioner, who is the original owner.

3. First of all, the petitioner has filed the writ petition asserting his title over the property, which is in the occupation of several strangers. Even



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according to the petitioner, his property measuring an extent of 4.56 acres in Tiruvottiyur village is in the enjoyment of unknown persons. Alleging that several persons had put up constructions and the respondents have failed to remove the encroachments, the petitioner has come by way of the above writ petition for not only demolishing the illegal constructions made by the illegal persons, but also to handover the property measuring an extent of 4.56 acres in R.S.No.582/1 to the petitioner. In support of his claim, the petitioner has produced before this Court the xerox copy of certified copy of the document dated 10.09.1916 to show that his grandfather had acquired the property, which was classified as natham. The property description in the said document shows that the conveyance was in respect of village natham comprised in several survey numbers. Out of larger extent of property, namely, 16.93 acres has been conveyed by one Mr.Subramaniya Gurukkal, who has traced his right in respect of an extent of 4.56 acres in R.S.No.582/1 as a grant. From the document, it is unknown as to how the property, which is classified as natham, had been settled in favour of Mr.Subramaniya Gurukkal, the person who conveyed the same in favour of one Mr.Semu Gramani. The petitioner appears to be a person claiming title



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to a huge extent of valuable property on the basis of an old document, which does not relate to the property that was referred to in the patta. The petitioner has not produced any revenue document which would justify his claim to the property in question.

4. A status report is also filed by the sixth respondent. From the status report, it is seen that the respondent Corporation along with the Tahsildar, Tiruvottiyur had conducted a joint inspection of the subject property on 04.10.2023 after issuing notice to all concerned. It is further stated that the property comprised in old Survey No.582/1 is correlating to T.S.Nos.2 to 84. The total extent of land was found to be 4.88 acres. About 83 sub-divisions have been made and the land has been classified as 'Circar Punjai'. All the lands were registered in the name of Ponniamman Koil Trustee by name Balakrishnan. In the status report, it is also stated as follows:-

“There are six streets in this area. There are residential houses and vacant lands in the said area. Office bearers of Kattuponniamman Koil, the residents of the said area



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are residing there for more than 30 years by paying the property tax to the Greater Chennai Corporation authorities. As the said land stands classified as “Kattuponniamman Koil Trustee Balakrishnan”, it is for the Executive Officer of the said Temple to carry out the eviction work. Hence, the Executive Officer or Trustee of Kattuponniamman Koil is a necessary party in this case.”

5. From the status report, this Court finds that the petitioner has no semblance of right over the property in which he claims title. The learned counsel appearing for the petitioner, at the beginning, submitted that the property belongs to the temple. The inconsistency in the affidavit and the stand taken by the counsel at the time of arguments indicate that the petitioner's assertion is a stale claim without any basis. Therefore, finding no merits whatsoever, the writ petition is liable to be dismissed.

6. An application is filed by a private person by name V.Raja in W.M.P.No.32735 of 2023 to implead himself as a party. But the counsel for



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the petitioner in the implead petition is not present when the matter was heard. However, opposing the prayer of the petitioner, a counter affidavit of the said individual has been annexed with the said petition tracing the past history of the property and the settlement proceedings. It appears that there is a ryotwari settlement and hence an extent of 3.31 acres has been registered in the name of the temple. It is stated that the remaining extent of 1.25 acres of land under 28 sub-divisions were registered in the names of several individuals showing the extent of land in enjoyment of each individual. It is also stated that pattas were issued to all the 48 occupants who are in possession and enjoyment of the land by assessing the ground rent due for each occupant for every fasli year. Several other facts are also stated in the said counter affidavit showing that the petitioner's father and the petitioner had made illegal attempts to grab the land on the basis of fake documents.

7. Even though this Court is not inclined to go into the facts in depth, the petitioner ought not to have come before this Court for establishing his title without any document. Such a writ petition cannot be encouraged. The



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petitioner has approached this Court not only for the first time, but earlier for considering his representation, which could never be considered even on the facts pleaded by the petitioner in the previous writ petition suppressing rival claim. These writ petitions are filed only to make the property litigious without approaching the civil Court. These people know that they would not be able to establish their case on title before the civil Court on the basis of such old documents. The petitioner has not whispered anything about the settlement proceedings, which would be appropriate to trace his title. The petitioner has not even impleaded the persons who are in enjoyment of property for several decades. Even for non-joinder of necessary parties, this writ petition is liable to be dismissed.

8. For the aforesaid reasons, the writ petition fails and it is dismissed. Consequently, W.M.P.No.23712 of 2019 and W.M.P.No.32735 of 2023 are closed. There shall be no order as to costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
06.02.2024



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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

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