



W.P(MD)No.1156 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1156 of 2023

Paramasivan

... Petitioner

-Vs-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

3.The Revenue Divisional Officer,
Kovilpatti Taluk,
Thoothukudi District.

4.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

5.Pandian @ Vellaiyapandian

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the 3rd respondent to remove the name of 5th respondent in patta bearing No.294



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and issue fresh patta in the name of the petitioner for S.No.7/2A, Old S.No. 7/2 situated at Rajapudukudi Village, Kayathar Taluk, Thoothukudi District measuring an extent of 0.43.0 Hectares in the light of Judgment and Decree dated 14.07.2016 made in SA(MD).No. 375 of 2011 on the file of this Court with in the stipulated time.

For Petitioner : Mr.M.Sam Eugene Jebakumar
For Respondents : Mr.SRA.Ramachandran
Addl. Govt. Pleader (for R1 to R4)

ORDER

This writ petition is filed seeking for issuance of a Writ of Mandamus to direct the third respondent to remove the fifth respondent's name in patta bearing No.294 and issue a fresh patta in the name of the petitioner for S.No.7/2A, Old S.No.7/2 situated at Rajapudukudi Village, Kayathar Taluk, Thoothukudi District measuring an extent of 0.43.0 Hectares in the light of Judgment and Decree dated 14.07.2016 made in SA(MD).No. 375 of 2011 on the file of this Court with in the stipulated time.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials available on records.



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3. According to the petitioner, he owns the subject property. The said property originally belonged to the fifth respondent. The fifth respondent vide a registered document No.467/1982 dated 28.05.1982, conveyed the above property in favour one Muthammal. Thereafter, revenue records were mutated in the name of the above said Muthammal and a patta has been issued in her favour. From the said Muthammal, the petitioner has purchased the property through a registered document No.78/1990 dated 03.02.1990. Subsequently, the revenue records were mutated in his name and patta was also transferred in his name. From the date of purchase, the petitioner is in continuous possession and enjoyment of the same till today. While so, the fifth respondent, who is not having any rights over the above said property, along with his henchmen, were attempted to interfere with the petitioner's peaceful possession and he managed to get his name entered in patta bearing No.294 along with my name. Hence, the petitioner has filed a civil suit in O.S.No.273 of 2008 on the file of the District Munsif Court, Kovilpatti, seeking relief of declaration of title over the above property and for consequential injunction. The said suit was contested by the 5th respondent herein and the same was partly decreed insofar as 90 cents alone

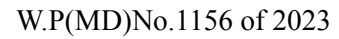


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in the above property vide Judgment and Decree, dated 13.07.2010. In respect of the remaining portion, the said suit was dismissed. Aggrieved by the said Judgment and Decree, the petitioner has preferred First Appeal in AS.No.41 of 2010 on the file of Sub Court, Kovilpatti. The said First Appeal is also contested by the 5th respondent herein and vide Judgment and Decree dated 06.04.2011, the First Appellate Court dismissed the Appeal Suit and confirmed the Judgment and Decree passed by the Trial Court. Aggrieved over the same, the petitioner has preferred Second Appeal in SA(MD).No.375 of 2011 before this Court. The 5th respondent herein entered appearance and contested the above Second Appeal. Under the said circumstance, the said Second Appeal came to be allowed in favour of the petitioner and the suit filed by the petitioner was Decreed as prayed for vide Judgment and Decree dated 14.07.2016. As against the said Judgment and Decree, the 5th respondent herein has not preferred any appeal till today. Hence the Judgment and Decree dated 14.07.2016 passed by this Court in favour of the petitioner attained its finality.

4. According to the petitioner, pursuance to the Judgment and Decree made in the Second Appeal, he made an application before the third



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5. It is seen that the fifth respondent has already sold the entire property to one Muthammal and the petitioner had purchased the same from the said Muthammal. Since the fifth respondent disturbed the petitioner's possession, he filed a suit, first appeal and the second appeal, wherein, he obtained a decree in his favour. It is further seen that as directed by the third respondent, the petitioner had obtained legal opinion, however, the third respondent has not considered the same. This Court is of the view that in this circumstances, no further enquiry is required and the revenue authorities ought to have mutate the revenue records in favour of the petitioner and issue patta in the name of the petitioner.

6. In view of the above, the third respondent is directed to remove the fifth respondent's name from the patta bearing No.294 and issue a fresh patta in the name of the petitioner for S.No.7/2A, Old S.No.7/2 situated at Rajapudukudi Village, Kayathar Taluk, Thoothukudi District measuring an extent of 0.43.0 Hectares in the light of Judgment and Decree, dated 14.07.2016 made in SA(MD).No. 375 of 2011, on the file of this Court within a period of four weeks from the date of receipt of a copy of this order.



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7. This writ petition is allowed accordingly. No costs.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
skn
To

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Thoothukudi.
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Thoothukudi District,
Thoothukudi.
- 3.The Revenue Divisional Officer,
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V.BHAVANI SUBBAROYAN, J.

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