BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

W.A(MD)No.1321 of 2024
and
CM.P(MD)Nos.10324 & 12799 of 2024

K.Badrinarayanan ... Appellant / Petitioner

Vs.

1.The District Revenue Officer,
Trichy.

2.The Revenue Divisional Officer,
Trichy.

3.The Thasildar,
Trichy West Taluk Office, Trichy.

4.Muthiah

5.Umayal

6.C.N.Meenakshi

7.CT.Senthilnathan Chettiar

8.N.Muthulakshmi

9.N.Meena

10.Nalin Arulmozhi

11.L.S.Vadivel @ L.Senthil Vadivel

12.L.Chidambaram @ Kittu ... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.24415 of 2022 dated 26.06.2023.

For Appellant : Mr.K.Govindarajan
for Mr.K.K.Senthil

For Respondent : Mr.R.Baskaran
Additional Advocate General No.VI
Assisted by
Mr.D.Sachi Kumar
Additional Government Pleader
for R1 to R3

: Mr.K.Hemakarthikeyan
for R4 & R7

: Mr.S.R.Rajagopal
Senior Counsel
for Mr.V.G.Suresh Kumar
for R8 to R12

: No appearance for R5

JUDGMENT

[Judgment of the Court was made by **P.VELMURUGAN., J.**]

This Writ Appeal is directed against the order passed by this Court in W.P(MD)No.24415 of 2022 dated 26.06.2023.

2. The appellant filed the writ petition before the writ Court in W.P(MD)No.24415 of 2022. The learned Single Judge, after hearing both the parties at length, dismissed the writ petition by giving liberty. Aggrieved over the said order, the writ petitioner has filed the present writ appeal.

3. The case of the appellant is that the properties comprised in S.No. 281 to an extent of 13.66 acres out of total extent of 26.65 acres and in S.No. 282 to an extent of 20.7 acres out of a total extent of 56.25 acres in Piratiyur Village, Edamalaipatti, Tiruchirappalli District was originally purchased by his grate Grandfather one S.Krishnasami Iyengar under registered sale deed dated 06.11.1920 from one Venkatachala Chettiyar. From the date of the purchase, he was in possession and enjoyment of the said properties. He got three sons by name Rajagopalachari, Srinivasan and Rengasamy Iyengar.

After the death of the Krishnasami Iyengar, his three sons succeeded the property and due to difference of opinion, one Rajagopalachari has filed a suit for partition in O.S.No.224 of 1948 on the file of the Sub Court, Tiruchirappalli and preliminary decree was passed on 22.02.1950. Thereafter, the appellant, who is none other than the grandson of Rajagopalachari, the plaintiff in O.S.No.224 of 1948 filed a petition for passing final decree and the same is pending.

4. In the meanwhile, the appellant came to understand that in the revenue records, certain other persons names were included. Therefore, the appellant made a request to the first respondent to cancel the patta standing in the name of the third parties and to restore the entry in the name of the original owner. The first respondent forwarded the said application to the third respondent to consider the same. In the meanwhile, he came to know that the 7th respondent made an application before the second respondent and the second respondent by order dated 27.07.2021, directed the third respondent to submit a fresh proposal after verification of the real facts.

5. Aggrieved over the same, the 4th respondent filed a revision before

the first respondent. The first respondent, without proper application of mind and giving opportunity to the petitioner, allowed the revision filed by the 4th respondent by order dated 07.10.2022 directing that no patta can be granted in terms of the subsequent sale deed entered in the name of the third parties and either the 7th respondent or the other persons, whose name are included in the revenue records, are no way connected with the suit properties. Aggrieved over the order passed by the first respondent dated 07.10.2022, the appellant filed the writ petition before the Writ Court. The learned Single Judge, without considering the records submitted by the petitioner, passed the dismissal order and hence, the present writ appeal has been filed.

6. The learned counsel for the appellant submits that in the order impugned in the writ petition dated 07.10.2022, the DRO stated that the 1927 Settlement Register clearly reflects the name of Venugopala Naidu, the appellant's great-grandfather's vendor's vendor. In 1910, Venugopala Naidu conveyed lands to Venkatachalam Chettiar, who, in turn, sold the same to the appellant's great-grandfather, S.Krishnaswamy Iyengar, in the year 1920. The 1927 Settlement Register reflects the name of Venugopala Naidu; therefore,

the learned judge erred in holding that the appellant had not established the direct link in the revenue records. Furthermore, the learned counsel submits that the first respondent, while passing the impugned order in the writ petition dated 07.10.2022, conferring the title to the 7th respondent's family by interpreting the compromise decree passed by this Court in O.S.A. No. 60 of 2017, which is improper and the said decree itself, this Court had protected the rights of the third parties to the compromise decree and the compromise decree is only an approval of the proposal of the parties and it had not objected the rights of the parties over the suit property. In light of these facts, the learned counsel prays that the order impugned in the writ petition dated 07.10.2022 should be interfered with. However, the learned single judge, without properly appreciating the facts, dismissed the writ petition by holding that the appellant had not placed any material evidence to show that the names of his grandfather or great-grandfather ever appeared in the revenue record. Hence, the learned counsel prays for the order passed by the learned single judge to be set aside.

7. The learned counsel for the contesting respondents submits that the

7th respondent, based on the compromise decree entered into between the parties in O.S.A.No.60 of 2017, made a representation before the second respondent. The second respondent, after conducting an inquiry, directed the third respondent to submit a report, and the fourth respondent approached the first respondent by way of revision. The first respondent considered the compromise decree passed by this Court and issued the order. Even in the compromise decree, third-party rights were protected. If the appellant has any grievance regarding the rights, title, or interest of the parties over the properties, he has to work out the remedy before the competent forum, not before the revenue court or the writ court. Therefore, the learned Single Judge, on proper appreciation of facts, rightly dismissed the writ petition, which warrants no interference.

8. Heard the learned counsel on either side and perused the materials available on record.

9. It is an admitted fact that there is an ongoing dispute concerning the property in question. The appellant claims title and ownership through his

great-grandfather, S.Krishnaswamy Iyengar, who allegedly purchased the property in 1920. However, there are conflicting claims, as the contesting respondents, including the 7th respondent, also assert rights over the same property, being the legal heirs of Chidambaram Chettiar. The learned Single Judge, however, noted that the appellant failed to provide sufficient evidence to show that the names of his grandfather or great-grandfather ever appeared in the revenue records, which would have substantiated his claim to the property. Furthermore, even though it is the appellant's claim, the same must be established before the civil court and not before the writ Court. For better appreciation, the relevant portion of the order passed by the learned single Judge is extracted hereunder:-

> "7.According to the petitioner, the property belonged to his great grandfather Krishnasamy Iyengar and not to Chidambaram Chettiar. If that be so, the claim has to be established before the civil court. The revenue authority will pose only one question. Whether the name of the applicant before him or that of his predecessor-in-title or interest was there in the revenue record in the recent past ?. The revenue authority-s function while effecting mutation is to ensure continuity. The applicant must be able to show a direct link with the persons whose names were found in the revenue record. The petitioner has not placed any material before me that the name of his grandfather or great grandfather ever figured in the revenue record.

> Substantial title disputes cannot be resolved or adjudicated by the revenue authority. The petitioner wants the revenue authorities to undertake such an exercise. The impugned order is a fallout of the judgment of the Ho'ble Division Bench rendered in OSA Nos.60, 61, 138 and 139 of 2017. The writ court cannot interfere with the impugned order.
>
> 8.Granting liberty to the petitioner to work out his rights before the civil court, the writ petition is dismissed. Connected miscellaneous petition is closed."

A bare perusal of the above findings rendered by the learned Judge, it could be seen that there is a cloud in title and the first respondent/District Collector also acted based on the compromise decree passed by this Court, as the revenue Court cannot validate the decree passed by the High Court. Further while dismissing the writ petition, the learned Single Judge has given liberty to the writ petitioner/appellant to work out his remedy before the civil Court. Therefore, this Court does not find any reason to interfere with the order passed by the learned Single Judge.

10. In view of the above, this Writ Appeal stands dismissed. The appellant is at liberty to work out his remedy in the manner known to law. No

Costs. Consequently, connected miscellaneous petitions are closed.

[P.V.,J.] [K.K.R.K.,J.]
24.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/No
PJL

To

1.The District Revenue Officer,
Trichy.

2.The Revenue Divisional Officer,
Trichy.

3.The Thasildar,
Trichy West Taluk Office,
Trichy.

P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN,J.

PJL

W.A(MD)No.1321 of 2024
and
C.M.P(MD)Nos.10324 & 12799 of 2024

24.10.2024