



W.P(MD)No.5469 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5469 of 2020

and

W.M.P(MD)Nos.4765, 4766 & 4668 of 2020

1.P.Jeyaraman

2.N.Mokkaiyan

... Petitioners

Vs.

1.The District Revenue Officer,
Madurai, Madurai District.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Usilampatti,
Madurai.

3.The Tahsildar,
Tahsildar Office,
Usilampatti, Madurai.

4.M.Ravi

5.N.Senthalaikannan

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent herein, vide proceedings in Ni.Mu.No.Gi2/14166/2016 dated 15.11.2019 and quash the same as illegal and further direct the first respondent herein to re-enquire our revision petition, in view of the order dated 18.02.1975 in C.M.A.27 of 1970 on the file of Principal Sub Judge, (Inam Abolition Tribunal) Madurai.

For Petitioners : Mr.V.Meenakshisundaram

For Respondents : Mr.T.Villavankothai
Additional Government Pleader
for R.1 to R.3

Mr.T.Lajapathi Roy
Senior Counsel
for M/s.Lajapathi Roy & Associates
for R.4 & R.5

ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Additional Government Pleader appearing for the official respondents and the learned Senior Counsel appearing for the private respondents.



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2.Patta was issued in respect of the petition mentioned properties in favour of the private respondents. Challenging the same, the petitioners moved the third respondent. The third respondent vide order dated 16.06.2015 dismissed the application. Aggrieved by the same, the petitioners moved the Revenue Divisional Officer, Usilampatti. Vide order dated 09.02.2016 confirmed the order passed by the Tahsildar, Usilampatti. The petitioners filed revision before the District Revenue Officer, Madurai. He also confirmed the orders passed by the subordinate authorities. Challenging the order dated 15.11.2019 passed by the District Revenue Officer, Madurai, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned Additional Government Pleader appearing for the official respondents and the learned Senior Counsel appearing for the



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private respondents called upon this Court to sustain the impugned orders and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.The petitioners claim that their forefathers were assigned the petition mentioned land by way of “Thoti Maniyam”. The father of the second petitioner and the father of the first petitioner along with Nallakaruppan filed petition before the settlement Tahsildar, Madurai – II by invoking the provisions of the Tamil Nadu Act 30 of 1963. They claimed ryotwari patta. Their claim was contested by Mokkasami Thevar, Muthiah Thevar and Kamana Thevar. Order was passed on 14.10.1969 sustaining the claim of Navanan and two others in respect of 2 acres 24 cents in Survey No.122/1C2 and the claim of Mokkasami Thevar was upheld in respect of the remaining 1 acre and 45 cents. The claims made by Muthiya Thevar and Kamana Thevar who were the sons of Kalyani Thevar was rejected. Navanan and others filed C.M.A.No.27 of 1970 before the Inam Abolition Tribunal (Sub Court, Madurai). Vide



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order dated 18.02.1975, the order of the Settlement Tahsildar was conformed. Thereafter, Navanan and two others filed O.S.No.63 of 1973 on the file of District Munsif Court, Thirumangalam seeking relief of declaration and possession in respect of 2 acres 24 cents in Survey No. 121/1C2 for which they had already been granted settlement patta. Order dated 14.10.1969 issued by the Settlement Tahsildar was marked as Ex.A1. The suit was dismissed on 15.07.1974. Aggrieved by the same, plaintiffs filed A.S.No.228 of 1974 before the Sub Court, Madurai. The first appeal was also dismissed on 30.08.1975. The father of the fourth respondent herein figured as the fourth defendant in the suit. The fifth respondent herein had purchased a portion of the petition mentioned property from the legal heirs of the defendants 5 and 6. Some of the issues framed in the suit were as follows:

“3.Whether the respondents have prescribed their right and title to the respective suit items by adverse possession?

4.Are the appellants entitled to the relief of declaration prayed for?



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5.Are the appellants entitled to the relief of recovery of possession prayed for? ”

The issues were answered against the plaintiffs and in favour of the defendants. Therefore, the revenue authorities could not have gone against the findings of the civil suit.

7.Of course, there is considerable merit in the contention of the learned counsel appearing for the petitioners that in view of Section 46 of Tamil Nadu Act 30 of 1963, an element of finality attaches to the order of the settlement authority. Section 46 of the said Act reads as follows:

“46. Finality of orders passed under this Act. -

(1) Any order passed by any officer, the Government or other authority or any decision of the Tribunal or the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall, subject only to any appeal or revision provided by or under this Act, be final.

(2) No such order or decision shall be liable to be questioned in any Court of law.”



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It is seen that Navanan and two others had obtained settlement patta in respect of 2 acres and 24 cents in Survey No.122/1C2 and the said order was subsequently confirmed by the Inam Abolition Tribunal also. Of course, any order passed in settlement proceedings was subject to the decision of the jurisdictional civil Court vide ***(1985) 4 SCC 10 (State of Tamil Nadu Vs Ramalinga Samigal Madam)***.

8. In this case, Mokkasami Thevar and other claimants should have gone to the civil Court to overturn the settlement patta. I fail to understand as to why Naranan and two others having succeeded before the settlement authority went before the jurisdictional civil Court seeking the relief of declaration. The settlement authority's order was also marked before the civil Court. When the jurisdictional civil Court had dismissed the suit and the same was also confirmed by the first appellate Court, in these collateral proceedings, it is not open to the writ Court to question the correctness of the civil Court's judgment and decree. In this view of the matter, I decline to interfere with the impugned orders.



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9.This writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The District Revenue Officer,
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- 2.The Revenue Divisional Officer,
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Usilampatti,
Madurai.
- 3.The Tahsildar,
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G.R.SWAMINATHAN, J.

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