



W.P(MD)No.10374 and 11473 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.07.2024

Delivered on : 21.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)Nos.10374 and 11473 of 2021

and

W.M.P(MD)Nos.8046, 8054 and 9003 of 2021

Muthu Krishnan

: Petitioner
(in both petitions)

Vs.

- 1.The District Collector,
Ramanathapuram District, Ramanathapuram.
- 2.The Sub-Collector cum Revenue Divisional Officer,
Ramanathapuram District, Ramanathapuram.
- 3.The Tahsildar,
Rameshwaram,
Ramanathapuram District.
- 4.Ganesh Raja
- 5.Murugan

: Respondents
(in both petitions)

PRAYER in W.P.(MD)No.10374 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorari, to call for the entire records pertaining to the proceedings of



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the second respondent in ந.க.(அ6)/2299/2021, dated 09.06.2021 and quash the same.

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PRAYER in W.P.(MD)No.11473 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorari, to call for the entire records pertaining to the impugned order passed by the second respondent vide his proceedings in மு.மு. (அ6)/2299/2021, dated 16.06.2021 and quash the same.

(in both petitions)

For Petitioner : Mr.M.Pitchai Muthu

For Respondents : Mr.V.Om Prakash,
Government Advocate, for R1 to R3.
(in both petitions)

: Mr.P.Prabhakaran, for R4 & R5.
(in W.P.(MD)No.10374/2021)

: No Appearance, for R4 & R5.
(in W.P.(MD)No.11473/2021)

ORDER

The Writ Petition in W.P.(MD)No.10374/2021 is directed against the enquiry notice, dated 09.06.2021 issued by the office of the second respondent, directing the petitioner to appear for enquiry with regard to appeal for patta filed by the fourth respondent.



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2. Writ Petition in W.P.(MD)No.11473/2021, is directed against the order, dated 16.06.2021 passed by the second respondent setting aside the patta change orders and to restore the patta in favour of Subbu Pillai relating to the property in S.No.593/5, Rameshwaram Town.

3. The case of the petitioner is that the property in S.No.593/5 situated in Rameshwaram, Ramanathapuram District originally belonged to the petitioner's ancestors since 1938 and due to family settlement between the petitioner's father and his brother, the said property and some other properties were allotted to his father; that after the death of his father, the petitioner and his brother were in possession and enjoyment of the said property; that since they came to know about the wrong entries in the revenue records, they have made an application before the third respondent to rectify the same; that the third respondent after enquiry had passed an order, dated 21.03.1997, transferring the patta in the name of the petitioner and his brother Vannimuthu; that in the family settlement between the petitioner and his brother the said property was allotted to the share of the petitioner and hence, Chitta stands in his name and that he has been in lawful possession and enjoyment of the said property.



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4. It is the further case of the petitioner that the third respondent directed the petitioner to appear for enquiry on 15.03.2021 as if the petitioner has encroached the said property; that the petitioner has appeared before the respondent and submitted the records; that the third respondent has again called the petitioner for enquiry to appear before the respondent on 31.03.2021 and accordingly, the petitioner has appeared and submitted his records again; that thereafter, the second respondent has issued proceedings, dated 09.06.2021, directing the petitioner to appear for enquiry on 15.06.2021 on the application alleged to have been made by the fourth respondent regarding the property in S.No.593/5 and that therefore, the petitioner was constrained to file the writ petition in W.P.(MD)No. 10374 of 2021, challenging the enquiry notice, dated 09.06.2021 sent by the second respondent.

5. When the writ petition in W.P.(MD)No.10374 of 2021 was moved for admission, this Court, after ordering notice to the private respondents, has granted interim stay of all further proceedings in Na.Ka.No.A6/2299/2021 dated 09.06.2021 of the second respondent. But according to the petitioner, he has received the order, dated 16.06.2021 passed by the second respondent through post on 30.06.2021 and it is his



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case that when the writ petition in W.P.(MD)No.10374 of 2021 was taken up for admission on 21.06.2021, the respondents have not informed about the passing of the impugned order, dated 16.06.2021 by the second respondent and that since the same came to be passed in violation of principle of natural justice, the petitioner was constrained to file the second writ petition in W.P.(MD)No.11473 of 2021, challenging the order, dated 16.06.2021 passed by the second respondent.

6. The second respondent has filed a counter affidavit in W.P. (MD)No.11473 of 2021, stating that the fourth respondent preferred a revision to the first respondent on 17.02.2021 in connection with dispute over the property in S.No.593/5 (extent 0.00.5 Hectare) of Rameswaram Village and Taluk in Ramanathapuram District; that the first respondent directed the third respondent to conduct enquiry, who in turn, conducted enquiry and after finding that the said case was said to be an appeal, transmitted the entire records to the second respondent on 27.04.2021 for taking necessary action; that the second respondent issued notice to the petitioner and the fourth respondent to appear before him on 15.06.2021 and obtained statement from the both parties; that the second respondent verified the documents, which were produced by the parties and passed the



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impugned order; that neither the petitioner nor the respondents 4 and 5 did prove their claim over the property on the basis of the registered documents; that the documents produced by them are not corroborated with regard to the land in question and that the second respondent has passed the impugned order on the basis of sufficient documents.

7. As rightly pointed out by the learned Government Advocate appearing for the official respondents, it is evident from the impugned order that the second respondent has recorded the statement of the petitioner as well as the fourth respondent and also received the documentary evidence from both the parties.

8. The case of the petitioner is that the petitioner has claimed ownership over the property by alleging that the property in dispute was ancestral property since 1938; that his father and five others had entered into a partition deed in 1965 relating to the property in dispute; that the fourth respondent's grandfather Subramaniapillai had taken the property in dispute for lease and they are residing therein and after Subramaniapillai, his relatives Arumuga Pillai, Vannimuthu, NallaMuthu, Nagarathinam Pillai and Subramania Pillai were residing by paying land rent therefor;



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that the said Subramania Pillai without any documents has managed to change the patta in his favour, but the land in dispute was not at all owned by him. But on the other hand, the respondents 4 and 5 have claimed ownership by alleging that the property was belonging to his grandfather Subbupillai, after the death of Subbupillai, the property came to be owned by their father Muniasamy and thereafter, the property came to be owned by the fourth respondent; that the petitioner, who is not having any iota of right in the property, has trespassed into the property and destroyed the Karuveta trees and put up a fence around the property and that the petitioner had no interest or title over the said property.

9. As rightly contended by the learned counsel for the petitioner, in the impugned order itself, the second respondent, after referring to the report of the Village Administrative Officer and the inspection made by the Revenue Divisional Officer, has noticed that the property Group.GR.S.No. 593/5 extent 0.00.5 hectare was entered in the name of Pu.Subbaiah Pillai in the land register; that there was no encumbrance for the period from 01.01.1987 to 19.04.2021 in respect of the said property; that patta No.946 in the land in S.No.593/5 was issued in favour of the petitioner, but the second respondent by observing that the sale deed, dated 07.05.1965



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produced by the petitioner does not relate to the property in dispute and that the patta changes in favour of the petitioner was not affected on the basis of the registered documents, has passed the impugned order setting aside the patta change orders and to restore the patta in the name of Pu.Subbupillai.

10. As rightly pointed out by the learned counsel for the petitioner, the petitioner has produced eight title documents from the year 1927 and also two rent documents, but the second respondent has only referred the sale deed, dated 07.05.1965. Though the petitioner has produced nine other documents, the second respondent has not at all considered the said documents, but recorded a finding, as if the petitioner has not produced any registered documents. But on the other hand, the respondents 4 and 5 have not produced any registered documents as claimed by the second respondent.

11. It is pertinent to note that even as per the revenue records, Pu.Subbu Pillai name finds place in the land rent register, dated 30.09.1987 and by taking that document and by treating as if the said Pu.Subbu Pillai was the original owner, has passed the impugned order to restore the patta in the name of Pu.Subbu Pillai.



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12. As rightly contended by the learned counsel for the petitioner, the respondents 4 and 5 have not produced any materials or evidence to prove *prima facie* that Subbu Pillai was the original owner of the property and more particularly, his name was shown only as a tenant.

13. The learned counsel for the petitioner would contend that the Officer, who passed the impugned order was placed in charge of the post of Revenue Divisional Officer as an interim arrangement; that the fifth respondent, who is the brother of fourth respondent was working as Tawali under the first respondent; that the second respondent, when so many patta appeals were pending at that time, has conducted enquiry and passed the impugned order hurriedly in a short span of time and that the same would go to show departmental bias on the part of the second respondent.

14. The learned counsel for the petitioner, in the additional typed set has produced the copy of PTAMScase status in the RDO Court, Ramanathapuram, wherein it is evident that patta appeals from 2011 to 2021 were pending and 62 appeals are pending in respect of Rameshwaram Taluk and 8 patta appeals were disposed of.



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15. But as rightly pointed out by the learned counsel for the petitioner, the patta appeal connected in the present case came to be filed on 17.02.2021 and final orders came to be passed on 15.06.2021 and no other appeal was disposed of in such a short time. As already pointed out, the petitioner has only challenged the enquiry notice in W.P.(MD)No. 10374 of 2021 and since the second respondent has passed final orders and the same came to be challenged in the second petition, the first petition in W.P.(MD)No.10374 of 2021 has become infructuous.

14. Considering the above facts and circumstances of the case, the complaint of the petitioner cannot be ruled out completely. Viewing from any angle, the impugned order setting aside the earlier patta change orders and restoring the patta in the name of Pu.Subbupillai cannot be sustained at all and as such the same is liable to be quashed. The respondents 4 and 5, if aggrieved, are at liberty to approach the competent Civil Court for deciding the tile over the property.

15. In the result, W.P.(MD)No.10374 of 2021 is dismissed as infructuous and W.P.(MD)No.11473 of 2021 is allowed and the impugned



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order, dated 16.06.2021 in ஸ்ர.ஸ்ர.(அ6)/2299/2021, is hereby quashed. The

respondents 4 and 5 are at liberty to approach the competent Civil Court, if

so advised. Consequently, connected Miscellaneous petitions are closed.

No costs.

21.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

das

To

- 1.The District Collector,
Ramanathapuram District, Ramanathapuram.
- 2.The Sub-Collector cum Revenue Divisional Officer,
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- 3.The Tahsildar,
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Ramanathapuram District.



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K.MURALI SHANKAR, J

DAS

Pre-delivery order made in
W.P(MD)Nos.10374 and 11473 of 2021
and
W.M.P(MD)Nos.8046, 8054 and 9003 of 2021

Dated 21.08.2024