



1

W.P.(MD)NO.13239 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13239 of 2023 AND

W.M.P.(MD)Nos.11188, 11189 & 25799 of 2023

N.Ramadoss

... Petitioner

Vs.

1. The Additional Collector (Revenue),
O/o.the District Collector,
Thanjavur – 623 001.

2. The Revenue Divisional Officer,
N.S.C.Bose Nagar,
Thanjavur – 613 007.

3. The Tahsildar,
Court Road,
Thanjavur – 613 001.

4. Padmavathy

5. A.Gopi

6. P.Edwin Raj

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in R.P. 08/2021/Vo(2) dated 23.12.2022 and quash the same and consequently direct the third respondent to issue patta in respect of the property situated at plot No.41, measuring 4920 sq.ft. at 2nd Street, Tamil Nagar, comprised in R.S.No.171 at Neelagiri Therkku Thottam Vattam, Lakshathoppu Village, Tanjore Taluk, Tanjore District in the name of



legal heirs of Mrs.Ezhilmalar Ramadoss viz. N.Ramadoss, Devipriya K.,
Aiswariya.

For Petitioner : Mr.M.Sricharan Rangarajan,
Senior counsel for Mr.K.Samidurai.

For R-1 to R-3 : Mr.P.Thambi Durai,
Government Advocate.

For R-6 : Mr.N.Tamilmani

For R-4 & R-5 : No appearance.

* * *

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Government Advocate appearing for the official respondents and the learned counsel appearing for the sixth respondent.

2.Even though respondents 4 and 5 have been served and their names are printed in the cause list, they have not chosen to enter appearance.



3.Ezhilmalar Ramadoss, wife of the writ petitioner purchased the petition mentioned property vide registered sale deed dated 19.06.1986. She is no more. The writ petitioner therefore applied to the revenue authorities for issuance of joint patta in respect of the petition-mentioned plot of land (Plot No.41) measuring 4920 sq.ft. The petitioner's request was considered by the Revenue Divisional Officer, Tanjore who vide order dated 29.07.2021 directed inclusion of the petitioner's wife's name as joint pattadhar on the strength of the sale deed dated 19.06.1986. Aggrieved by the same, the sixth respondent filed revision before the Additional Collector (Revenue), Tanjore. In the revision petition dated 06.09.2021, the fourth respondent figured as a joint applicant. The first respondent vide order dated 23.12.2022 set aside the order dated 29.07.2021 passed by the Revenue Divisional Officer, Tanjore and relegated the aggrieved party to go before the jurisdictional civil Court. Challenging the same, this writ petition has been filed.

4.The learned Senior counsel appearing for the petitioner 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 direct the authorities to issue joint patta in the names of the legal heirs of Mrs.Ezhilmalar Ramadoss.

5.The learned Government Advocate appearing for the respondents submitted that the impugned order is well reasoned. He pointed out that since dispute had arisen between the parties, it is only just and proper that they move the jurisdictional civil Court and not the revenue authorities. He justified the impugned order in the light of the decision of the Hon'ble Division Bench reported in **2011 (2) CWC 242 (Vishwas Footwear Company Ltd V. The District Collector)**. The learned counsel appearing for the sixth respondent also submitted that there is a serious dispute regarding title and that the impugned order has to be sustained. The respondents prayed for dismissal of the writ petition.

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

7.There is no dispute that the property originally belonged to one Subramaniam Pillai. One Mangalambal, W/o.Raju Moopanar purchased 9 acres and 76 cents of the land from Subramaniam Pillai vide



sale deed dated 26.01.1946. The said Mangalambal was blessed with two sons and five daughters. Among the children, partition took place way back on 09.10.1959(document No.3005/1959). Pushpanatha Moopanar was allotted “A” schedule property. The other son Saminatha Moopanar was allotted “B” schedule property. According to the writ petitioner, Pushpanatha Moopanar plotted out “A” schedule property which measured an extent of 2 acres and 84 cents. The properties allotted in “A” schedule and “B” schedule are comprised in survey No.171. While Pushpanatha Moopanar was allotted 2 acres 84 cents in the eastern side of survey No.171, Saminatha Moopanar got 2 acres and 84 cents in the middle portion. Pushpanatha Moopanar had plotted out what was allotted to him. He sold plot Nos.39, 40 and 41 in favour of one Rajamanikkam. Rajamanikkam sold plot Nos.40 and 41 in favour of V.N.Swaminathan, then minor represented by his guardian Subramaniam. Ezhilmalar Ramadoss, writ petitioner's wife purchased plot No.41 vide sale deed dated 19.06.1986 (document No.2196/1986) from V.N.Swaminathan.

8.While so, the fourth respondent herein i.e. Padmavathi, W/o.Saminatha Moopanar executed power of attorney in favour of the fifth respondent(A.Gopi) in respect of plot Nos.39 and 41. Based on the



said power of attorney, Gopi entered into a registered sale agreement dated 21.04.2016 with the sixth respondent herein. Aggrieved by these developments, the writ petitioner herein submitted a complaint before the District Registrar, Tanjore seeking cancellation of the sale agreement. The District Registrar, Tanjore vide proceedings dated 13.04.2018 called upon the petitioner to go before the jurisdictional civil Court on the ground that he lacked the power to cancel a registered document. However, he gave a finding that the subject matter of the power of attorney as well as the registered sale agreement fell within schedule “A” of the partition deed dated 29.10.1959 (document No.3005/1959).

9. The power of attorney executed in favour of Gopi on 18.01.2016 was cancelled by the fourth respondent herein vide document No.20.06.2018. It was also registered as document No.3637/2018. Now the only question that calls for consideration is whether the impugned order passed by the first respondent is justified.

10. It is too obvious that the impugned order has been passed only at the instance of the sixth respondent. The learned counsel appearing for the sixth respondent would of course point out that the



revision petition filed before the first respondent was signed by the sixth respondent as well as the fourth respondent. But then, before this Court, the fourth respondent has not come forward to oppose the writ prayer. It is only the sixth respondent who is vigorously contesting the proceedings. I wanted to know if any sale deed is standing in favour of the sixth respondent. The learned counsel appearing for the sixth respondent fairly submitted that the sixth respondent is having only the registered sale agreement and nothing more. Section 54 of the Transfer of Property Act, 1882 categorically states that a contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties and that it does not, of itself create any interest in or charge on such property. Therefore, I have to necessarily hold that the sixth respondent herein lacked the *locus standi* to maintain the challenge before the first respondent. As already noted, the fourth respondent had already cancelled the power of attorney executed in favour of the fifth respondent in respect of the petition-mentioned property. It is true that even before the cancellation of the power deed, the sale agreement in favour of the sixth respondent was executed and registered on 21.04.2016 itself. That does not make any difference. Even as on date, the sixth respondent is only a sale agreement



holder and nothing more. The learned Senior counsel appearing for the petitioner drew my attention to the recent decision of the Hon'ble Supreme Court rendered in Civil Appeal No.10327 of 2011 dated 02.11.2023 in which it has been reiterated that an agreement of sale is not conveyance and that it does not confer title. Since the fourth respondent herein has not come forward to oppose the writ prayer, I come to the conclusion that she is no longer interested in the subject matter.

11. Neither the fourth respondent nor the sixth respondent have challenged the proceedings dated 13.04.2018 issued by the District Registrar, Tanjore. In the said proceedings, it has been clearly stated that the property purchased by Ezhilmalar Ramadoss was in Schedule "A" of the partition deed dated 29.10.1959 and that it has been wrongly included in the power-of-attorney executed by the fourth respondent herein in favour of Gopi. This finding has become final.

12. The case of the petitioner is that the property purchased by his wife falls within Schedule "A" of the partition deed dated 09.10.1959 which was allotted to Pushpanatha Mooppanar. The petitioner's wife traced her title only to Pushpanatha Mooppanar.



Schedule “B” was allotted to Swaminatha Mooppanar. The District Registrar has clarified that the fourth respondent herein wrongly included Plot No.41 of “A” Schedule that was purchased by the petitioner's wife in the power-of-attorney executed by her in favor of Gopi. The contesting sixth respondent claims under Gopi. The power-of-attorney deed has been cancelled by the fourth respondent. The sixth respondent who alone is challenging the petitioner is not having any title deed in his favour. In view of these factual aspects, I came to the conclusion that the sixth respondent has no locus standi at all in the matter.

13.For the foregoing reasons, the impugned order is set aside. I hold that the petitioner has also made out a case for granting consequential relief. The third respondent is directed to issue joint patta in favour of the legal heirs of the deceased Ezhilmalar.

14.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



To
WEB COPY

1. The Additional Collector (Revenue),
O/o.the District Collector,
Thanjavur – 623 001.
2. The Revenue Divisional Officer,
N.S.C.Bose Nagar,
Thanjavur – 613 007.
3. The Tahsildar,
Court Road,
Thanjavur – 613 001.



WEB COPY



11

W.P.(MD)NO.13239 OF 2023

G.R.SWAMINATHAN, J.

PMU

W.P.(MD)No.13239 of 2023

16.08.2024