



W.A.(MD) No.747 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.747 of 2014

and

M.P.(MD) No.3 of 2014

and

C.M.P.(MD) No.4313 of 2017

A.Chandrasekaran (Died)

... Appellant/3rd Party

1.A.Jeyaseelan

2.Dr.Ganesan

... Appellants 1 & 2

[1st and 2nd appellants are substituted in the place of the deceased sole appellant vide Court order dated 12.03.2024 made in C.M.P.(MD) No.3357 of 2024 in W.A.(MD) No.747 of 2014]

Vs.

1.P.Megalingam

... 1st Respondent/
Writ Petitioner

2.The District Collector,
Theni District, Theni.



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3.S.Murugan

4.R.Seeniyappan

... Respondents 2 to 4/
Respondents 1 to 3

5.The Executive Office,
Melachokkanathapuram Town Panchayat,
Bodinayakanur T.K., Theni District.

6.The Sub Registrar,
The Sub Registrar Office,
Bodinayakanur,
Theni District.

... Respondents 5 & 6

***[Respondents 5 & 6 – impleaded vide Court
order dated 13.04.2017 made in C.M.P.(MD)
No.3237 of 2017 in W.A.(MD) No.747 of 2014]***

7.The Tahsildar,
Bodinayakkanur Taluk,
Bodinayakkanur,
Theni District.

... 7th Respondent

***[7th Respondent – impleaded vide common order
dated 13.02.2024 made in C.M.P.(MD) Nos.4756 of
2017 and 8397 of 2019 in W.A.(MD) No.747 of 2014]***

8.Shanmugasundari

9.Vignesh

10.Saravanan

... Respondents 8 to 10

***[Respondents 8 to 10 – brought on record as LRs of the deceased 1st
respondent vide common order dated 13.02.2024 made in C.M.P.(MD)
Nos.4756 of 2017 and 8397 of 2019 in W.A.(MD) No.747 of 2014]***



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Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 20.11.2013 made in W.P.(MD) No.3143 of 2011.

For Appellants 1 & 2:	Mr.S.Anwar Semeem for Mr.Antony Arul Raj
Respondent-1 :	Died
For RR2 & 7 :	Mr.N.Muthuvijayan Special Government Pleader
For RR3 & 4 :	No appearance
Respondents 5 & 6 :	Dismissed
For RR8 to 10 :	Mr.T.R.Subramanian

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred by a third party to W.P.(MD) No.3143 of 2011 and the writ petitioner is arrayed as the 1st respondent in this appeal. Pending appeal, the sole appellant/third party died and the 1st and 2nd appellants are substituted in the place of the sole appellant. W.P.(MD) No.3143 of 2011 was filed challenging the proceedings of the District Collector, Theni District dated 02.03.2011.



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2. The facts are slightly complex, but not too complicated to understand and they are as below:

(a) According to the deceased appellant, a block of property comprised in S.Nos.187/1 and 187/2 of Bodi West Hills Village, Bodi Taluk, Theni District originally belonged to his grandfather Vadivelpillai and that in 1945, he had settled the property in favour of his son Angamuthupillai. On the demise of Angamuthupillai, the property had devolved on his son Chandrasekaran and his brothers A.Jeyaseelan and Ganesan, who are the appellants herein.

(b) During settlement proceedings, the property in S.No.187/1 was classified as “assessed dry waste”. On 28.03.1978, the aforesaid property in S.No.187/1 was assigned to one Adhilingam. This Adhilingam had sold the property to one Thiyagarajan through his Power of Attorney on 30.04.1997. Thiyagarajan had applied for mutation of patta in his name and his request was rejected by the jurisdictional Tahsildar *vide* his proceedings dated 11.05.2007. It appears that this order of the Tahsildar was not challenged by Thiyagarajan.



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- (c) While things stood thus, on 23.10.2007, Thiagarajan had sold the property to one Murugan, who is arrayed as 3rd respondent in this appeal. The writ petitioner, at the relevant point of time, was stated to be the Village Administrative Officer of the village concerned and he had issued *kist* receipts in favour of his brother-in-law, Murugan.
- (d) Subsequently, the very same writ petitioner, who had earlier issued the *kist* receipts would now apply for issuance of patta in the name of his brother-in-law, Murugan, the 3rd respondent as the latter's Power of Attorney. This came to be rejected by the Revenue Divisional Officer *vide* his proceedings dated 30.06.2009. This order of the Revenue Divisional Officer was not challenged.
- (e) After knowing full well that request for issuance of patta was rejected by the Tahsildar for Murugan, the writ petitioner himself entered the scene and sought for issuance of patta in his name. This was based on a sale deed alleged to have been obtained by the writ petitioner from the Power of Attorney of Adhilingam, who claimed to be the assignee of the property under S.No.187/1. Interestingly enough, this sale deed based on which the writ petitioner seeks right, was obtained by him



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within one month from the date of rejection of the request for issuance of patta in favour of Murugan. What it underscores is that the writ petitioner knew what was happening and yet he took a sale from the Power of Attorney of Adhilingam.

(f) Pretending innocence, the writ petitioner would now seek patta in his name and this was rejected. He challenged the same in W.P.(MD) No. 13360 of 2009 and this Court *vide* its order dated 13.04.2010 directed the District Collector, the 2nd respondent herein to hold an enquiry and pass appropriate orders.

(g) Be that as it may, the appellants, on their part, had approached the Revenue Officials for issuance of patta in their name. The Revenue Divisional Officer had conducted an enquiry and came up with his report, dated 30.06.2009 and he made it available to the District Collector.

(h) Now, the District Collector has an application for issuance of patta pending before him and also an obligation to comply with the orders of this Court in W.P.(MD) No.13360 of 2009 in which the writ petitioner had obtained a direction for issuance of patta. The District Collector



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therefore held an enquiry. It may have to be stated that the District Revenue Officer, in the meantime, had come up with his order dated 28.02.2011 and had cancelled the assignment made in favour of Adhilingam and this proceedings of the District Revenue Officer was not challenged.

- (i) It is in these circumstances, on 02.03.2011, the District Collector had passed the order which is impugned in the writ petition. In the course of his enquiry, the District Collector had enquired the writ petitioner, his brother-in-law, Murugan as well as the appellants herein. He had taken cognizance of the cancellation of the assignment in favour of Adhilingam and also the report of the Revenue Divisional Officer, which in essence, favours the appellants herein, and chose to reject the claim of the writ petitioner to have a patta issued in his name.
- (j) The legality of this order of the District Collector subsequently became the subject matter of W.P.(MD) No.3143 of 2011. Smartly, the writ petitioner chose not to implead the appellants in the said proceedings, when he knew too well that the appellants herein are rival claimants for grant of patta. The writ petition came to be allowed on the solitary



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ground that there was no breach of condition of assignment made in favour of Adhilingam. What however the learned Single Judge did not consider or rather did not have an occasion to consider was the earlier sale of property in S.No.187/1 by the Power of Attorney of Adhilingam in favour of Thiagarajan and the denial of patta to Thiagarajan and the subsequent denial of patta in favour of Murugan as well as the cancellation of very assignment in favour of Adhilingam.

(k) Stunned by the order of the learned Single Judge, the appellants herein have approached this Court whose grievance does not require any further narration.

3. Heard both sides.

4. If the doctrine of *res ipsa loquitur* can be applied to the facts of the case, then fraud is written all over the approach and attitude of the writ petitioner. He had issued *kist* receipts in favour of Murugan, when he did not possess a patta in his name. Even if it is not considered significant in law since *kist* receipts are not document in title, he cannot plead innocence or ignorance



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about this fact. And it is the very writ petitioner who had approached for obtaining patta in the name of his brother-in-law as the latter's Power of Attorney and it was denied by the Revenue Divisional Officer *vide* his proceedings dated 30.06.2009. Exactly a month later, to be precise on 31.07.2009, the writ petitioner himself chose to buy the property from Adhilingam. Does it require any great elaboration than a design to defraud the system? And the climax is that the very title of Adhilingam was later nullified by the proceedings of the District Revenue Officer dated 28.02.2011 and this order of cancellation of the District Revenue Officer was also considered in the impugned proceedings of the District Collector dated 02.03.2011. Now, without challenging the cancellation of assignment in favour of Adhilingam, the writ petitioner cannot obtain a right to challenge the proceedings of the District Collector dated 02.03.2011. But he deliberately hid all the facts and has presented to the Court that as if the assignment in favour of Adhilingam was intact, and that he has purchased the property after 32 years and that he is entitled to obtain the patta. Could there be any thing better than this that may be termed rascallion than the one this Court now witnesses. The thought, attitude and the approach of the writ



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petitioner is smacks of dishonesty, and he tried to manipulate the judicial process most unfairly by not impleading the appellants. A litigant such as the writ petitioner does not deserve neither the sympathy of the Court, nor any remedy. This manipulator deserves to be shown the exit door to the legal system and this Court does it now.

5. In conclusion, this Court allows this appeal, sets aside the order of the learned Single Judge dated 02.03.2011 passed in W.P.(MD) No.3143 of 2011. For the deliberate manipulation of the legal process, this Court slaps costs of Rs.1,00,000/- (One Lakh Rupees only) on the writ petitioner, which he is liable to pay the appellants herein. The appellants are entitled to recover the same as a debt in appropriate legal proceedings, if the writ petitioner does not comply with this order. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.)

(P.V.M., J.)

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NCC : Yes/No

Index : Yes/No

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To

- 1.The District Collector,
Theni District, Theni.
- 2.The Tahsildar,
Bodinayakkanur Taluk,
Bodinayakkanur,
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