



W.A.(MD).No.827 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.07.2024

CORAM

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD).No.827 of 2018
and
C.M.P.(MD).Nos.4909 of 2018 and 2535 of 2019

M.Hariharasudan

... Appellant/Nil

Vs.

1.R.Karmegam

... Respondent/Writ Petitioner

2.The District Collector,
Madurai District,
Madurai.

3.The Commissioner,
Madurai Corporation,
Madurai.

4.The Revenue Divisional Officer,
Madurai District,
Madurai.

5.The Tahsildar,
Thirupparankundram,
Madurai District.

... Respondents/Respondents 1 to 4



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 30.05.2018 made in W.P.(MD).No.11547 of 2018 on the file of this Court and allow the Writ Appeal.

For Appellant : Mr.S.Ram Sundar Vijayraj

For R-1 : Mr.A.N.Ramanathan

For R-2, R-4 & R-5: Mr.A.Kannan,
Additional Government Pleader

For R-3 : Mr.S.Vinay

JUDGMENT

(Judgment of the Court was made by K.RAJASEKAR,J.)

This Intra-Court appeal has been filed by the third party in the Writ Petition challenging the order passed by this Court in W.P.(MD).No.11547 of 2018, directing the second respondent in the Writ Petition to consider the writ petitioner's representation dated 16.04.2018 and pass orders in the light of the order dated 16.06.2000 in Na.Ka.No.11729/1998 passed by the second respondent and issue patta in favour of the writ petitioner and his brother within three months from the date of receipt of a copy of the order.



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2. For the sake of convenience, the parties herein are referred to as per their rank and status before the Writ Court.

3. The appellant herein is a third party, who is an adjacent land owner to the subject land situated in S.No.226/4, measuring an extent of 60 cents situated at Madakulam Village, Thirupparankundram Taluk, Madurai.

4. The case of the writ petitioner before the Writ Court is that Survey No.226/4 is consisting of total 60 cents. Out of 60 cents, the lands in Survey No.226/4A admeasuring 19 cents and Survey No.226/4B admeasuring 14 cents were acquired for the purpose of widening the road and handed over to the Highways Department. The remaining 27 cents comprised in Survey No.226/4C was in possession and enjoyment of the writ petitioner and subsequently, he came to know that the lands in Survey No.226/4C have been wrongly classified as a Government poromboke. Hence, he submitted a representation to the Revenue Divisional Officer seeking to effect transfer of patta and after a detailed enquiry, the Revenue Divisional Officer gave a finding in his order in Na.Ka.No.11729/1998



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dated 16.06.2000 that the subject land was mistakenly classified as Government poromboke and also directed the officials to grant patta in favour of the writ petitioner and his brother. Even thereafter, patta was not granted. Hence, the writ petitioner sent a representation to the respondents on 16.04.2018 seeking to rectify the mistake and grant patta in the light of the order of the Revenue Divisional Officer dated 16.06.2000. Since no action was taken, the writ petitioner has approached this Court by filing a Writ Petition seeking Mandamus.

5. After hearing the parties, this Court has directed the second respondent to issue patta in favour of the writ petitioner and his brother, as observed by the Revenue Divisional Officer in his order dated 16.06.2000. Aggrieved over the positive direction issued by this Court directing the revenue authorities to issue patta in favour of the writ petitioner and his brother, the third party/adjacent land owner has approached this Court by way of Writ Appeal.



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6. The learned counsel for the appellant would submit that already the order of the Revenue Divisional Officer in Na.Ka.No.11729/1998 dated 16.06.2000 was nullified by way of a direction issued by the Special Commissioner of Land Administration vide order dated 18.02.2004. Further, the Commissioner has directed the Revenue Divisional Officer to pass necessary orders regarding the issuance of patta. Based on the above direction, the Revenue Divisional Officer has once again conducted enquiry and has observed that the land in Survey No.226/4C to the extent of 0.27 Acres is situated in between two other portions of land, which belongs to the Government. The Revenue Divisional Officer, by order dated 18.04.2005, had declared the subject land as Government poromboke and refused to transfer the patta in the name of the writ petitioner. This order has been suppressed by the writ petitioner and based on the earlier order dated 16.06.2000, direction has been obtained from this Court for issuance of patta. Hence, the impugned order is liable to be set aside.

7. The learned counsel for the appellant would further submit that several litigations have taken place between the writ petitioner as well as the



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appellant regarding the encroachments made in the disputed land. The writ petitioner has also initiated civil suit in O.S.No.511 of 2016 before the learned Principal District Munsif, Madurai praying to pass a declaratory decree in his favour as per the proceedings of the Revenue Divisional Officer in Na.Ka.No.11729/1998 dated 16.06.2000. The plaint was rejected on 26.07.2017 and by suppressing all the proceedings, the writ petitioner had approached this Court seeking for Mandamus and order has been obtained by making false claim and suppression of facts.

8. Per contra, the learned counsel for the writ petitioner submits that the writ petitioner was not aware of the subsequent order dated 18.04.2005 passed by the Revenue Divisional Officer and based on the earlier order, he has approached this Court. He would also submit that other proceedings relating to suit as well as the Writ Petitions are not concerned with the disputed property and those suits were issues relating to encroachment made in the properties acquired by the Highways Department.



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9. The learned Additional Government Pleader appearing for the respondents 2, 4 and 5 would submit that based on the revenue records, an order dated 18.04.2005 has been passed by the Revenue Divisional Officer refusing the transfer of patta in favour of the writ petitioner and hence, the same is valid. This order was not brought to the knowledge of the learned Single Judge and an order has been obtained by making false representation. Hence, he prayed to set aside the order of the learned Single Judge.

10. We have considered the submissions made on both sides and perused the materials available on record.

11. Admittedly, the Writ Petition was filed only on the basis of the order passed by the Revenue Divisional Officer dated 16.06.2000, wherein, he has directed the Tahsildar to issue patta in the name of the writ petitioner for the lands in Survey No.226/4C. However, this order has been taken on appeal before the Commissioner of Land Administration and as per order dated 18.02.2004, the matter was remitted back to the Revenue Divisional Officer for re-consideration. The Revenue Divisional Officer has re-



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considered the matter and by order dated 18.04.2005, he has held that the disputed land is classified as a Government poromboke and the writ petitioner has no manner of right over the said land.

12. Further, various documents and earlier proceedings would reveal that the writ petitioner was already relegated to the Civil Court to establish title with regard to the lands in Survey No.226/4C. Since the earlier order directing the Tahsildar to issue patta in his favour has been modified and the claim of the writ petitioner seeking patta has been rejected by the subsequent order, the writ petitioner cannot base his claim on the earlier order dated 16.06.2000. Since the learned Single Judge has passed the order only on the basis of the earlier order of the Revenue Divisional Officer dated 16.06.2000, which has been subsequently modified, this Court is of the view that the order passed by the learned Single is not sustainable and the writ petitioner is not entitled for relief claimed in the Writ Petition.

13. Accordingly, the order passed by the learned Single Judge in W.P. (MD).No.11547 of 2018 dated 30.05.2018 is set aside and the Writ Appeal



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is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(A.D.J.C.,J.) (K.R.S.,J.)
02.07.2024

NCC : Yes / No
Index : Yes / No
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