



W.P.(MD) No.19374 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19374 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

M.Annamalai(Died)

2.Parvathi

3.Marimuthu

4.Subramanian

5.Shanthi

.. Petitioners

(P2 to P5 are substituted vide Court
order dated 19.07.2023 in W.M.P(MD)
No.12465 of 2020)

Vs.

1.The District Revenue Officer,
Thoothukudi,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

3.The Tahsildar,
Kovilpatti,
Thoothukudi District.



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4.R.Vellaisamy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned proceedings dated 21.07.2015 in A.6.6517/2014 on the file of the 2nd respondent and quash the same.

For Petitioner	:	Mr.M.P.Senthil
For R1 to R3	:	Mr.B.Saravanan Additional Government Pleader
For R4	:	Mr.V.B.Sundareshware

ORDER

This writ petition is filed challenging the impugned proceedings dated 21.07.2015 in A.6.6517/2014 on the file of the second respondent and to quash the same.

2.The case of the petitioner is that he is the owner of the property comprised in S.No.57/2B, measuring an extent of 1 acre 50 cents, out of the total extent of 3 acres 33 cents in Kilavipatti Village, Kovilpatti Taluk, Thoothukudi District, under a sale deed dated 04.10.2010. The said property originally belonged to one Ellappa Naicker ancestrally. The petitioner has purchased the said property from the said Ellappa Naicker



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through his power agent and after the purchase, the revenue records have been mutated in the petitioner's name. It appears that even prior to the purchase of the said property by the petitioner, there was a dispute between Ellappa Naicker and one Ramasamy and his father Srinivasan. The said two persons had claimed title over the said property without any right and the revenue records were changed in their names vide proceedings of the third respondent, dated 31.08.1988.

3.While so, an appeal was filed by Ellappa Naicker before the second respondent and the second respondent, after considering the facts, specifically held that absolutely no document stands in the name of the said Ramasamy and Srinivasan and he was pleased to set aside the patta granted in favour of them by proceedings dated 24.08.2009. Challenging the said proceedings, a revision has been preferred before the third respondent. In such circumstances, a comprehensive suit in O.S.No.227 of 2010 was filed by the said Ellappa Naicker against the said Ramasamy and Srinivasan in respect of the entire extent of S.No.57/2B. The order of the second respondent dated 24.08.2009 was also challenged by way of



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revision before the first respondent by Ramasamy. The first respondent, on consideration of the entire issue had ultimately dismissed the revision by stating that the revenue records would be mutated as per the outcome of the suit. It also appears that the fourth respondent filed a suit for specific performance against the said Srinivasan and Ramasamy in O.S.No.72 of 2011 on the file of the Sub-Court, Kovilpatti. The said Ellappa Naicker through his power agent Balasubramanian has taken steps to implead himself as a party to the suit in O.S.No.72 of 2011 and the same was allowed by the learned Sub-Judge, by order dated 25.11.2012 and he has also filed an appeal to reject the plaint. Therefore, the petitioner is before this Court.

4.Today when the matter came up for hearing, it is informed by the learned counsel appearing on behalf of the petitioner that the suit for specific performance filed by the fourth respondent has been dismissed for default on 16.03.2020 and the same has not been restored till date. The suit filed by the petitioner's predecessor in title was also dismissed for default on 31.03.2022. It is also stated that an appeal is pending



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before the first respondent regarding the change in the UDR patta.

5.Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel for the fourth respondent.

6.It is now brought to the notice of this Court that the suit filed by the fourth respondent for specific performance has been dismissed for default. That apart, the third respondent is only an agreement holder and not even a title holder and the cancellation on the basis of the representation of an agreement holder is prima facie erroneous and the Revenue Divisional Officer has not issued notice to the parties and considered the documents of the petitioner. Therefore, this Writ Petition is allowed and the impugned proceedings dated 21.07.2015 passed in A. 6.6517/2014 by the second respondent is set aside and the matter is remitted back to the second respondent for fresh consideration and the second respondent shall consider the same and pass orders taking into consideration the above facts within a period of eight weeks from the



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date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are also closed.

10.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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Thoothukudi District.

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Kovilpatti,
Thoothukudi District.

3.The Tahsildar,
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P.T.ASHA, J.
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