



W.P.(MD) No.3428 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.3428 of 2016

and

W.M.P(MD)Nos.3033 and 3034 2016

A.T.P.Senthil Kumaran

.. Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3.The Tahsildhar,
Karaikudi,
Sivagangai District.

4.K.L.Venkatachalam Chettiar

5.R.Sankar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order in Pa.Mu.Pi/20673/14 dated 13.01.2016 issued by



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the first respondent in respect of lands in Survey No.109/25, Puthuvayal Village, Sakkottai Main Road, Karaikudi Taluk, Sivagangai District and quash the same.

For Petitioner	:	Mr.J.Anandkumar
For R1 to R3	:	Mr.B.Saravanan Additional Government Pleader
For R5	:	Mr.S.Sathishkumar
For R4	:	No appearance

ORDER

This writ petition is filed to quash the impugned order in Pa.Mu.Pi/20673/14, dated 13.01.2016 issued by the first respondent in respect of land in Survey No.109/25, Puthuvayal Village, Sakkottai Main Road, Karaikudi Taluk, Sivagangai District.

2.The brief facts as set out in the affidavit filed in support of the writ petition are follows:

The aforesaid property measuring an extent of 3,117 Sq.ft., originally belonged to one Palaniammal, who had executed a registered sale deed, dated 19.12.1944 in favour of one Kalimuthu, who in turn sold the same to one Agilandammal under a registered sale deed, dated



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22.05.1945. The said Agilandammal had executed a registered sale deed, dated 20.08.1953 in favour of Thangachamy Chettiar, who was in the absolute possession and enjoyment of the said property.

3.After the demise of the said Thangachamy Chettiar, his legal heirs viz., one son and three daughters, had entered into a oral partition and in the said partition, the property was allotted to the share of Ponnuchamy Chettiar, S/o.Thangacham Chettiar, who is none other than the father of the petitioner herein. On 20.01.2012, the said Ponnuchamy Chettiar had executed a settlement deed in favour of the petitioner and his brother Sathyanarayanan in respect of the aforesaid property. From which, the petitioner and his brother have been in possession and enjoyment of the same.

4.While so, one K.L.Venkatachalam, S/o.Kuzhanthaisamy, Sankar, S/o.K.L.Rathinam and few others had created a forged power deed in respect of the aforesaid property and those documents were registered as Document Nos.1097/97 and 207/97 respectively. While they were



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attempting to create the documents in respect of the property in S.No. 109/26, the four boundaries of the land in S.No.109/25 was included. In the UDR scheme, the name of the respondents 4 and 5 have been wrongly entered in the revenue records. Therefore, the petitioner had filed an application before the second respondent to rectify the said wrong entries. The second respondent by his proceedings dated 08.02.2013 directed the third respondent to transfer the patta in the name of the petitioner's grandfather viz., Thangachamy Chettiar. Simultaneously, it appears that the petitioner had also given a complaint to the District Registrar, Karaikudi in respect of the forged power deed created by the respondents 4 and 5 and a criminal complaint has also been lodged before the Sivagangai Town Police Station, on 01.03.2012. After enquiry, the District Registrar, Karaikudi, issued notice to the fourth and fifth respondents and after hearing the parties has passed a detailed order stating that the respondents 4 and 5 and others have created forged documents and he forwarded the said report to the Inspector General of Registration for cancelling the same. Though the Joint Sub-Registrar, has given a complaint to the police officials along



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with the direction of the District Registrar, no action has been taken.

They have not conducted any enquiry. On repeated requests made by the petitioner, enquiry was conducted. During the said enquiry, the respondents 4 and 5 stated that they have filed S.A(MD)No.9 of 2014 before this Court. The respondents 4 and 5, challenging the order passed by the second respondent dated 08.02.2013, have approached the first respondent for filing a revision. The first respondent passed the impugned order dated 13.01.2016 directing the third respondent to transfer the patta in the name of Kuzhanthaisamy Chettiar, the father of the fourth respondent, on the basis of the judgment of the second appeal. Therefore, the petitioner is before this Court.

5.The learned counsel appearing for the petitioner would place reliance upon the description of the properties in the schedule to the decree in O.S.No.21 of 2005 wherein the boundaries have been described as Thangachamy Chettiar's house and property. The property which is the subject matter of the suit, situated in S.No.109/26 and therefore, the description of the property would clearly show that two of the boundaries



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to the property comprised in S.No.109/26 have been described as the land belonging to Thangachamy Chettiar in S.No.109/25. He would also submit that this property has been purchased under the sale deed, dated 28.09.1953. However, on perusal of the same, there is no reference either to S.No.109/25 or to S.No.109/26. The petitioner has also not produced any earlier revenue records standing in the name of either themselves or in the name of his predecessor in title. By the impugned order, the first respondent has pointed out the fact that the petitioner has not filed any document to prove his title or enjoyment of the land in S.No.109/25 and has also referred to the pending of the second appeal in S.A(MD).No.9 of 2014 and set aside the order passed by the second respondent.

6.The learned Additional Government Pleader appearing for the respondents 1 to 3 would draw the attention of the Court to the patta granted in the year 1929 wherein the name of Kuzhanthaisamy Chettiar, the father of the fourth respondent is shown as the person in occupation of the land in S.No.109/25 and they have produced the documents to show their continuous use of the said lands. It is seen that the



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respondents 4 and 5 did not claim title to S.No.109/25 on the basis of the sale deed of the year 1929, but, would claim a right only on the basis of possession which is reflected in 'A' register.

7. Therefore, in the absence of any proof of possession or ownership by the petitioner, I see no reason to interfere with the order dated 13.01.2016 passed in Pa.Mu.Pi/20673/14 by the first respondent. Hence, the writ petition is dismissed. It is needless to state that the order would be subject to the ultimate result of the civil Court proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

03.09.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.
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To

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