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W.P.No.20772 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.20772 of 2021
and WMP Nos.22032 & 22033 of 2021

R.Pazhani

.... Petitioner

-Vs-

1.The Tahsildar
Vanur Taluk
Villupuram District.

2.Mr.Sankar

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus quashing the proceedings of the 1st respondent dated 10.7.2021 made in 2021 / 0103 / 07 / 254661 which culminated into issuance of Patta No. 872 and the consequential proceeding of the 1st respondent dated 8.9.2021 made in 2021 / 0103 / 07 / 259073 which culminated into issuance of Patta No. 886 Aanpakkam Village, Vanur Taluk, Villupuram District both in respect of the lands in Survey No. 13/1 Aanpakkam Village, Vanur Taluk, Villupuram District measuring 4.32 acres, in the name of the 2nd respondent and to consequently direct the 1st respondent to remove the name of 2nd respondent and to restore the name of the petitioner alone in the patta.



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For Petitioner : Mr.T.S.Vijaya Raghavan

For Respondents : Mr.A.Selvendran
Special Government Pleader
for R1

Mr.J.Antony Jesus for R2

ORDER

This writ petition has been filed challenging the patta that has been issued in favour of the 2nd respondent in patta No.886 pertaining to the subject property in Survey No.13/1 measuring an extent of 1-82-00 hectares.

2.The case of the petitioner is that he is the owner of the subject property by virtue of the title deed dated 25.01.1963 which was issued by the Government under standing order No.45, paragraph 4. Thereafter, the petitioner was in possession and enjoyment of the subject property. Sometime in July 2013, one Rajalakshmi and four others conveyed the subject property to one Rasu and Arumugham, who are the vendors of the 2nd respondent. The said Rasu and Arumugham instituted a suit in OS.No.98 of 2014, before the District Munsif Court, Vanur, for the relief of declaration and permanent injunction against the petitioner herein. The petitioner also filed a counter claim in the said suit seeking for the relief of declaration of title and permanent injunction.



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3. When the above suit was pending, the said Rajalakshmi sold the subject property to the 2nd respondent through a registered sale deed dated 29.10.2020. The petitioner submitted his objection and the sale deed was kept as a pending document. In the meantime, the 2nd respondent filed WP.No.20461 of 2020 for the release of the sale deed and this writ petition was disposed of by an order dated 05.01.2021, directing the Sub Registrar, Mylam to register the sale deed.

4. After the above order was passed in the writ petition, the petitioner filed a review application before this Court. When this review application was at the Sr stage, an order came to be passed on 01.02.2021 and the relevant portions are extracted hereunder:

9. There are two aspects as regards the whole issue involved in the matter.

- (a) Firstly, the right and title of the writ petitioner is concerned, he claims the same through a sale deed said to have been executed by Raasu and Arumugam on 15.07.2013 and thereby, the transfer of his interest is hit by Section 52 of the Transfer of Property Act, since the sale has taken place during the pendency of O.S.No.98 of 2014.*
- (b) Secondly, some fraud appears to have been played on the Court since in the affidavit filed in support of the writ petition in WP.No.20461 of 2020, the writ petitioner did not disclose any facts regarding the civil suit pending before the District Munsif Court in O.S.No.98/2014 as regards the same*



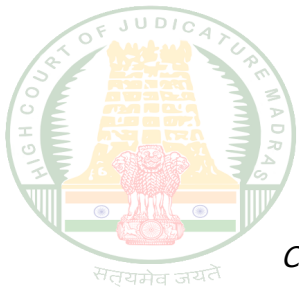
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property nor has he impleaded Pazhani/the review petitioner as a party respondent in the Writ Petition.

10. This apart, when this Court has orally directed the Sub Registrar not to release the registered document on 27.01.2021, and when the same was said to have been communicated to Mr.T.M.Pappiah, learned Special Government Pleader on the same day evening, and when the learned Special Government Pleader has made a submission that he has communicated the same to the 2nd respondent/Sub Registrar over cell phone on the same evening, the document has been released. This Court is seriously disturbed by the turn of events that had happened on 29.01.2021.

11. Now this Court requires the Inspector General of Registration (who is not a party to the proceedings) to hold an enquiry if there has been any foul play on the part of the Sub Registrar concerned while registering and releasing the sale deed in favour of Sankar. He is required to submit a report within a period of three weeks from today and required to make fair statement if there has been any mischief attempted by the Sub Registrar, and to indicate what action is proposed to be taken against the official concerned.

5.Inspite of the above order passed by this Court, the Sub Registrar had released the document in favour of the 2nd respondent. When the review application came up for hearing on 27.09.2024, the same was disposed of and the relevant portions are extracted hereunder:



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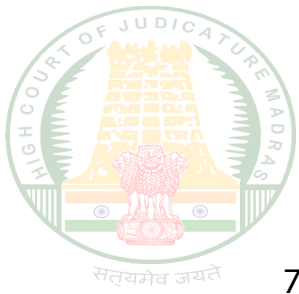
3. Incidentally, this Court noticed that a direction was issued by this Court in its order dated 01.02.2021 in Rev.Aplw.SR.No.7383 of 2021, requiring the Inspector General of Registration to probe into certain perceived overreach by the concerned Sub Registrar.

4. When the present review petition came up for hearing on 20.09.2024, this Court wanted to ascertain the same and required Mr.B.Vijay, learned Additional Government Pleader to make a statement on that.

5. Mr.B.Vijay, learned Additional Government Pleader today makes a statement that the Inspector General of Registration had probed into the matter and found the Sub Registrar concerned guilty of certain misconduct under Rule 17(b) of Tamil Nadu Government Civil Services (Discipline and Appeal) Rules.

6. Set in the context, this Court is inclined to dispose of this review petition with a direction to the review petitioner to agitate all his contentions in the suit in O.S. No. 98 of 2014 on the file of the District Munsif Court, Vanur. However, the Court was informed at this juncture that the suit in O.S. No. 98 of 2014 was dismissed on 04.09.2024 for default. Therefore, the review petitioner is directed to raise all the contentions made herein in O.S.No. 98 of 2014 if the same has been restored to file, which includes his right to file any additional pleadings and to make his contentions now raised as part of his pleadings before the trial court. Or else, institute a fresh suit for the said purpose. No costs.

6.In the meantime, the 2nd respondent who is a lis pendens purchaser managed to get his name also added as a joint patta holder in patta No.872. Subsequently, the name of the petitioner was removed and an individual patta was given in the name of the 2nd respondent in patta No.886 by the 1st respondent. The same has to be put to challenge in the present writ petition.



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7.In the considered view of this Court, there was a dispute regarding the right and title over the subject property and the vendors of the 2nd respondent had filed a suit in O.S.No.98 of 2014, before the District Munsif Court, Vanur. During the pendency of this suit, the sale deed was executed in favour of the 2nd respondent. This only means that the right of the 2nd respondent will be subject to the rights of the vendors who have instituted the suit seeking for the relief of declaration of title and permanent injunction. The question of a bonafide purchaser will never arise in the case of a lis pendens purchaser and the law on this issue is now too well settled. Useful reference can be made to the judgement in *Chander Bhan (D) through L.R. Sher Singh .V. Mukhtiar Singh and Ors* reported in 2024 3 CTC 543. The Apex Court made it abundantly clear that the plea of bonafide purchaser will not apply in a lis pendens purchase and the buyer of the property will be bound by the same. Therefore, the claim of bonafide purchaser made by the 2nd respondent has to necessarily fail.

8.The suit was admittedly dismissed for default on 04.09.2024 and the suit is yet to be restored on file. Therefore, till the suit is restored on file and the vendors establish a right and title over the subject property, the 2nd respondent cannot claim for a better right over the property. This is in view of the fact that the 2nd respondent is a lis pendens purchaser.

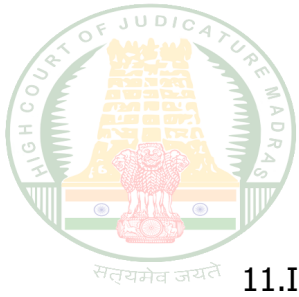


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9. In the light of the above discussion, the 1st respondent ought not to have added the name of the 2nd respondent in the patta. To add insult to injury, initially the name of the 2nd respondent was added as a joint patta holder along with the name of the petitioner. Thereafter, the name of the petitioner was deleted and patta was exclusively given in favour of the 2nd respondent. This Court also takes into consideration the fact that a specific direction was issued during the pendency of the review application not to release the document and in spite of the same, the Sub Registrar had released the document and disciplinary proceedings have already been initiated against the Registrar in this regard. This fact also has a lot of significance in the case in hand. Since if this sale deed had not been released, there was no occasion for the 1st respondent to issue patta in favour of the 2nd respondent. Therefore, there is a connection between the release of the sale deed and the grant of patta by the 1st respondent.

10. The upshot of the above discussion is that the patta that has been issued by the 2nd respondent has to be necessarily cancelled by the 1st respondent. The patta shall be restored in the name of the petitioner. Ultimately, depending upon the final result in the suit, if it is restored, the parties can approach the revenue authorities and seek for the necessary relief. This process shall be completed by the 1st respondent within a period of two weeks from the date of receipt of copy of this order.



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11. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
NCS : Yes/No
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To

The Tahsildar
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N.ANAND VENKATESH, J.

KP

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