



W.P.Nos.21378 & 21374 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.Nos.21378 & 21374 of 2024
W.M.P.Nos.23330 & 23327 of 2024

In Both W.P.'s:-

K.C.Thulasiraman

...Petitioner

Vs

1.District Collector,
Tiruvallur District,
First Floor, Collectorate,
Tiruvallur – 602 001.

2.Revenue Divisional Officer,
Tiruvallur Taluk,
Bharathiyar St, SP Nagar,
Thiruvallur, Kakkalur,
Tamil Nadu 602 003.

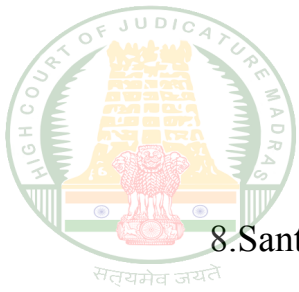
3.The Tahsildar,
Tiruvallur Taluk,
JN Road, NH 716,
Thiruvallur, Tamil Nadu.

4.Sagunthala

5.Yuvaraj

6.Gopinath

7.Premalatha



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8.Santhosh Kumar

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...Respondents

PRAYER in W.P.No.21378 of 2024 :-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the proceedings culminating in the grant of the impugned patta bearing 642 dated 10.05.2022 on the file of the 3rd respondent and quash the same as illegal and thereby render justice.

PRAYER in W.P.No.2137 of 2024 :-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the proceedings culminating in the grant of the impugned patta bearing 648 dated 08.08.2022 on the file of the 3rd respondent and quash the same as illegal and thereby render justice.

In Both W.P.'s:-

For Petitioner : Mr.Sharath Chandran
For Respondents : Mr.A.Selvendran(For R1 to R3)
Special Government Pleader
Mr.L.Chandrakumar
(For R4 to R9)

ORDER

The above Writ Petitions had been filed to quash the proceedings of the third respondent culminating in the issue of patta bearing No.648 dated 08.08.2022 and patta bearing No.642 dated 10.05.2022 respectively.



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2.The short facts which has led to the filing of the above Writ Petitions are one and the same and are herein below stated:-

The petitioner contention is that one Ayyasamy Naidu had purchased the lands situated in S.Nos.58A/18B and 10/2B measuring and extent of 3.25 acres and 1.20 acres respectively under a registered sale deed dated 24.01.1946. Subsequently, there was an oral partition between Ayyasamy Naidu and his brother Chinnasamy Naidu. Thereafter, Ayyasamy Naidu sold an extent of 65 cents in S.No.58A/18B and 35 cents in S.No.10/2B in favour of his brother under a registered sale deed dated 05.08.1960.

3.During his life time Chinnasamy Naidu sold an extent of 72 cents out of an extent of 227.5 cents in S.No.58A/18B and 28 cents out of 95 cents in S.No.10/2B to one Kubendran under a registered sale deed dated 29.07.1989. After these transactions, the survey numbers were subdivided as S.No.10/2B2 and 58A/18B2 in favour of Kubendran and patta was issued with reference to the survey numbers.



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4. Thereafter, Chinnasamy Naidu had sold 81 cents from out of remaining extent of 155.5 cents in S.No.58A/18B and 28 cents out of 67 cents in S.No.10/2B to one Bhaskaran under a registered sale deed dated 30.12.1991. This resulted in the sub division of S.No.10/2B as S.No.10/2B1A in favour of Baskaran. Despite these transactions patta remained in the name of Chinnasamy for S.Nos.10/2B1 and 58A/18B1. The petitioner is the son of Chinnasamy. Chinnasamy died on 08.05.2003 leaving behind him surviving his wife Ramanchi Ammal, three daughters namely Ratnabai, Doraiammal and Varalakshmi and son, the petitioner herein. Ramanchi Ammal passed away on 25.08.2003 and on 01.09.2017, the daughters of Chinnasamy Naidu executed a settlement deed in favour of the petitioner with reference to the remaining extent in S.Nos.58A/18B1 and 10/2B1.

5. Around this time, one Varadarajalu Naidu claimed a right to the property on the basis of an alleged unregistered sale agreement dated 23.11.1986 entered into between him and Chinnasamy. The petitioner



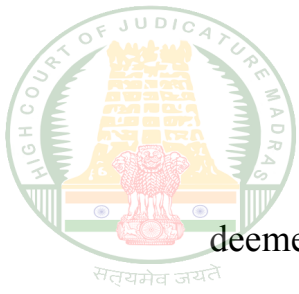
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thereafter filed O.S.No.251 of 2002 before the District Munsif Court, Tiruvallur for bare injunction. By judgment and decree dated 28.06.2010, the suit was dismissed. Thereafter, the legal heirs of Varadarajalu Naidu appear to have obtained sub division of S.No.10/2B and obtained patta in respect of the same. Similar was the case of S.No.58A/18B1. They had sought for the transfer of patta on the basis of unregistered sale agreement. The third respondent appears to have colluded with the said Varadarajalu Naidu in granting the patta. Aggrieved thus, the petitioner is before this Court.

6.Heard the learned counsels on either side and perused the records.

7.The third respondent has proceeded to grant patta in favour of the respondents 4 to 9 on the basis of an unregistered agreement of sale in respect of which the agreement holder has not even filed a suit for specific performance. Further the agreement of sale is dated 23.11.1986 in respect of which till the year 2022 no proceedings for specific performance has been taken. The vendor had also passed away on 08.05.2003. During his lifetime, the alleged agreement holder has not



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deemed it fit to get the agreement specifically enforced. That being the case, the order granting patta on the strength of this agreement and behind the back of the petitioner cannot be countenanced and has to be set aside. Accordingly, the Writ Petitions are allowed and the third respondent is directed to restore the patta back in the name of the petitioner within a period of four months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

02.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To

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