



W.P.(MD)No.8768 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.8768 of 2023
and WMP(MD) Nos.8018 & 8019 of 2023

Saviour

... Petitioner

Vs

1. The District Collector,
Pudukottai, Pudukottai District.

2. The District Revenue Officer,
Pudukottai, Pudukottai District.

3. The Revenue Divisional Officer,
Illuppur, Pudukkottai District.

4. Antonysamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order Nee.Mu.D5/8214/2018 passed by the 2nd respondent in her proceedings dated 03.03.2023 and quash the same as illegal and further direct the 2nd respondent to restore the patta in Nos. 2657 and 2899 as it existed earlier and devoid of merits.



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For Petitioner : Mr.N.Kamesh

For Respondents : Mr.B.Saravanan (R1-R3)
Additional Government Pleader

Mr.K.C.Maniyarasu (R4)

ORDER

The writ petition challenges the order of the 2nd respondent setting aside the order of the 3rd respondent confirming the mutation of records in favour of the writ petitioner.

2.I have heard the learned counsel on either side and perused the materials available on record.

3.The 4th respondent herein as plaintiff along with other interested parties has filed a suit in O.S.No.119 of 2016 before the District Munsif, Keeranur seeking to declare them as absolute owners, consequently to declare the sale deed executed by the 9th defendant in favour of the 2nd defendant as null and void, sale deed executed by the 2nd defendant in favour of the defendants 6 to 8 as null and void, settlement deed executed by the defendants 6 and 7 in favour of the 2nd defendant as



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null and void, sale deed executed by the 2nd defendant in favour of the 1st defendant as null and void and for consequential permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs in the suit property.

5.It is admitted that the said suit was dismissed for default on 23.06.2022. An application was filed in I.A.No.1 of 2022 for condoning the delay of 137 days in filing the application for restoration of suit, under Section 5 of Limitation Act. The said application was also dismissed on 07.07.2023. It is the specific contention of the learned counsel for the petitioner that no steps shall be taken thereafter either by the 4th respondent or the other plaintiffs to have the suit restored, in fact challenge to the various sale deeds and the settlement deed, which were impugned in the said suit have finally remains unsuccessful. However, the 2nd respondent has considered the pendency of the said suit and the fact that no documents were produced by the writ petitioner in support of the contention, proceeded to set aside the findings of the 3rd respondent.



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6.It is the case of the learned counsel for the petitioner that the petitioner is in possession of the documents right from the year 1926 and all these documents were produced before the 3rd respondent and the same have not been considered by the 2nd respondent. The said documents, on which, reliance was placed by the learned counsel for the petitioner are also included in the typed set of papers in the writ petition.

7.However, the learned Additional Government Pleader appearing for the official respondents 1 to 3 would invite my attention to the portion of the impugned order that there is a specific reference by the 2nd respondent that the petitioner has not produced any documentary evidence. In this regard, he would also invite my attention to the counter affidavit filed by the 2nd respondent that the petitioner did not produce any documentary evidence for purchase of lands from one Savariyan or his legal heirs. It is seen that no grounds were raised in the writ petition refuting the finding of the 2nd respondent that the petitioner has not produced any documents.



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8.However, considering the fact that challenge to the title of the 4th respondent by way of O.S.No.119 of 2016 was unsuccessful with the dismissal of said suit, for non-prosecution and later, even the condonation of delay was rejected for non-prosecution, the 4th respondent cannot contend that the sale deeds in favour of the writ petitioner and the others, which were challenged in the suit are not binding on the 4th respondent or that the 4th respondent is the absolute owner of the subject property.

9.In view of the peculiar circumstances, I deem it fit to remit the matter to the 2nd respondent for fresh consideration of the revision challenging the order of the 3rd respondent rendering a finding in favour of the writ petitioner.

10.In fine, this writ petition is allowed by setting aside the order the impugned order of the 2nd respondent, dated 03.03.2023 and remit by the same to the 2nd respondent for reconsideration on merits and in accordance with law, the revision filed by the 4th respondent, after affording an opportunity to the petitioner as well as the 4th respondent to



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produce documents, on which reliance is placed on by the respective parties and after due consideration of the documents produced by the parties, the 2nd respondent shall pass orders on the revision within a period of twelve weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2025

Index : Yes / No
NCC : Yes / No
PNM

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P.B. BALAJI, J.

PNM

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