



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	23.12.2020
Pronounced on	19.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.16649 of 2018

and W.M.P. (MD) No.14734 of 2018

R.Muthuraman

... Petitioner

-vs-

1. The District Revenue Officer,
Pudukottai District,
Pudukottai.
2. The Revenue Divisional Officer,
Aranthangi, Pudukottai District.
3. The Thasildar,
Taluk Office,
Aranthangi Taluk,
Pudukottai District.

4. Thiru.R.S.Gopalakrishnan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records relating to the proceedings in Na.Ka.No.A3/10869/04, dated 23.06.2006 on the file of the 1st respondent herein and quash the same.

For Petitioner : Mr.V.Ilanchezian
For R1 to R3 : Mr.K.P.Krishnadoss
Spl. Govt. Pleader
For R4 : Mr.M.P.Dhamodaran

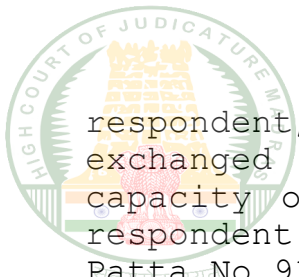
O R D E R

This petition has been filed, seeking to quash the order dated 22.06.2006 passed by the 1st respondent in his proceedings in Na.Ka.No.A3/10869/04, by which the petitioner's name was deleted from the Patta.

Brief Facts:

2. The case of the petitioner was that he and the 4th respondent's father, namely, Santhanam were brothers and sons of A.G.Rajagopal Naidu and there were two daughters also. On 10.06.1965, the said Rajagopal Naidu executed a Will in favour of his sons and daughters, in which, the petitioner was allotted Schedule C property and the father of the 4th respondent was allotted the property of B Schedule;

2.1. Though the property in dispute in S.No.196/2 to an extent of 66 cents was originally allotted to the father of the 4th



respondent, by way of deed of exchange, the properties were exchanged between them. Subsequently, the 4th respondent, in the capacity of Power of Attorney filed an application before the 3rd respondent to delete the entries made in favour of the petitioner in Patta No.910 with regard to the property in S.No.196/2 and to entire the name of the 4th respondent's father, suppressing the factum of exchange;

2.2. It was submitted that after enquiry, the 3rd respondent deleted the name of the petitioner from Patta No.910 on 09.08.2000 and issued a fresh patta in favour of the 4th respondent vide Patta No.415 for the said property, aggrieved by which, the petitioner preferred an appeal before the 2nd respondent with all relevant documents. The 2nd respondent, after hearing either side, set aside the order passed by the 3rd respondent and ordered inclusion of the name of the petitioner. Against the order of the 2nd respondent, a Revision Petition was filed by the 4th respondent on 24.02.2004 before the 1st respondent, which came to be allowed on 22.06.2006 and the said order is impugned herein.

2.3. It was further submitted that though there was a provision to file 2nd revision initially, it was subsequently withdrawn by the Land Administration Department with effect from 19.08.2008, with a direction to the aggrieved parties to approach the Competent Court of Law and having no other efficacious remedy, the petitioner is before this Court against the order dated 22.06.2006.

3. There is no counter filed by the Government and the 4th respondent has filed a counter affidavit, wherein it has been *inter alia* stated as follows:

i) The present petition is not maintainable, as the petitioner had approached this Court after a lapse of almost 10 years. Though there were disputes over the subject matter in respect of S.No.196/2, the 4th respondent obtained a favourable order in the suits, but however, the judgments and decrees passed in the suits were reversed in A.S.Nos.13/2013 and 1 of 2014, thereby the petitioner was declared as title holder of the disputed land in S.No.196/2. Aggrieved by the judgments and decrees of the Appellate Court, the 4th respondent has filed S.A.(MD) Nos.614 and 615 of 2015 before this Court and the same are pending;

ii) It was stated by the 4th respondent that in order to defeat the rights in the pending Second Appeals, the petitioner has come up with the present petition with an inordinate delay of 10 years. It was further stated in the counter affidavit that mere wrong entry of the name in the Patta in the UDR scheme will not confer any title to the petitioner over the disputed properties and the petitioner cannot claim any right over the properties, especially on the strength of a concocted unregistered deed of exchange and therefore, it was prayed that the Writ Petition is liable to be dismissed.



4. Learned counsel for the petitioner vigorously submitted that the 1st respondent, without appraising the documents and revenue records in a proper perspective, passed the order dated 22.06.2006 merely on the basis of the statement made by the 4th respondent without any legal sanctity. It was also submitted that the 1st respondent failed to consider the title over the property in dispute even before the UDR scheme as per the exchange deed dated 27.01.1986 and the 4th respondent had been taking all steps to delete the name of the petitioner so as to include his name in the Patta, even after declaration that the petitioner is the owner of the property.

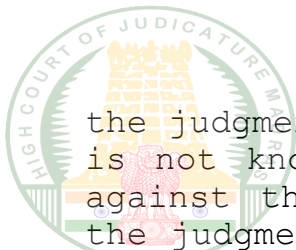
5. Learned counsel for the 4th respondent heavily opposed this petition, reiterating that a wrong entry in the Patta cannot, at any stretch of imagination, be taken advantage of, by the petitioner, especially when the genuineness of the purported deed of exchange itself is highly doubtful. The 1st respondent has rightly held that the alleged unregistered deed of exchange cannot be relied upon either for issuance of patta or inclusion of name in it. Therefore, it was argued that this petition is, being misconceived, devoid of merits and is liable to be dismissed.

6. This Court also heard the submissions of Mr.K.P.Krishnadoss, learned Special Government Pleader on the above issue and perused the material documents available on record.

7. Admittedly, the petitioner has challenged the order of the 1st respondent dated 22.06.2006 after a decade and even though he had an adverse judgment from the Civil Court in the suit, thereafter, he had a favourable order from the Appellate Court in A.S.No.13 of 2013 and A.S.No.1 of 2014. It was brought to the attention of this Court through counter that the 4th respondent, aggrieved by the judgment of the Appellate Court, preferred appeals in S.A.(MD) Nos.614 and 615 of 2015 before this Court and the same are pending as on date.

8. According to the petitioner, he and Santhanam are brothers and the 4th respondent is the son of the petitioner's brother. There was an exchange deed, based on which the property is said to have devolved upon the petitioner, which is refuted by the 4th respondent. At the time of argument, both parties stated that a constant quietus can be given to the dispute only by the Civil Court and the matter is subjudice in Second Appeal.

9. As of today, the decree of Civil Court stands in the name of the petitioner. Since the Civil Court in the Appeal Suit has declared that the petitioner is the title holder of the property, patta shall be issued in favour of the petitioner. In the event of the 4th respondent succeeding in the Second Appeal, the patta can always be transferred in favour of the 4th respondent. As long as the decree and judgment is in force, which has not been stayed in the Second Appeal, the Revenue Authorities are bound to implement



the judgment and decree of the Civil Court passed in Appeal Suit. It is not known as to why the petitioner has not filed any contempt against the respondents for wilful and deliberate disobedience of the judgment and decree passed in A.S.No.13 of 2013 and A.S.No.1 of 2014, especially when there was no stay granted in the Second Appeal orders and had the petitioner filed contempt, the Court would have either punished the respondents or will take up the contempt petition along with the Second Appeal. The cause of action is a continuous one and Section 20 of the Contempt of Courts Act cannot abridge the powers of the Constitution of India.

10. In the result, the Writ Petition is allowed and the impugned order of the 1st respondent dated 23.06.2006 is set aside. A direction is issued to the 3rd respondent to transfer the patta in favour of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

List this matter on 26.04.2021 for reporting compliance.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

1. The District Revenue Officer,
Pudukottai District, Pudukottai.
2. The Revenue Divisional Officer,
Arathangi, Pudukottai District.
3. The Thasildar,
Taluk Office,
Aranthangi Taluk, Pudukottai District.

Copy to

The Section Officer,
Judicial Posting,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.V.ILLANCHEZIAN, Advocate (SR-6076[F] dated 19/02/2021)

W.P. (MD) No.16649 of 2018
19.02.02021

SV2 (CO)

KB(03.03.2021) 4P 6C

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