



W.P.(MD) No.24303 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.24303 of 2019
and
W.M.P.(MD) No.20922 of 2019**

V.Sampath Kumar

... Petitioner

/vs./

- 1.The District Revenue Officer,
Pudukkkottai District,
Pudukkottai.
- 2.The Revenue Divisional Officer,
Pudukkkottai District,
Pudukkottai.
- 3.The Tahsildar,
Alangudi Taluk Office,
Alangudi,
Pudukkkottai District.
- 4.Appavoo
- 5.Kennedy
- 6.Pushpam



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7.Rajendran

8.Bharathiraja

9.Thangarasu

10.Amutha

11.Padmavathy

12.Mahalakshmi

13.Prabhakaran

14.C.Stalin

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the District Revenue Officer, Pudukottai dated 19-09-2019 issued in Na.Ka.No.4557/2015/D5 and that of the Revenue Divisional Officer, Pudukottai dated 04-03-2015 issued in Ne.Mu.A6/3491/2013 and that of the Tahsildar, Alangudi dated 18-01-2013 in Tho.Mu.P.T.R. 143/2013/A6 and quash the same and issue a consequential direction to the respondents 1 to 3 to restore the patta and revenue records in the individual name of the petitioner's father, Shri K.O.K. Vaidyanathan Chettiar for the lands in Survey No.242/1, Keeramangalam and post, Alangudi Taluk, Puthukottai District admeasuring 1.83 acres.



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For Petitioner : Mr.N.Dilip Kumar
For R1 to R3 : Mr.D.S.Nedunchezian
Government Advocate
For R4 to R9 : Mr.AL.Gandhimathi Senior Counsel for
Mr.C.Madhavan
For R10 to R14 : No appearance

ORDER

The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India seeking to quash the order passed by the second respondent/the Revenue Divisional Officer, Pudukkottai and thereafter to direct the Authorities to restore the patta in the name of the petitioner's father, K.O.K.Vaidyanathan Chettiar.

2. The writ petition aims to bring out the fact as to how the Revenue Authorities attempt to circumvent the orders of the civil Court in order to bestow favour upon a person in whom they are interested. In the affidavit filed in support of this writ petition, the petitioner has traced out the title to the property in question and the various litigations that the petitioner, the respondents 4 to 9 and their predecessor in title had been engaged in.

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3. The learned counsel for the petitioner would bring to the notice of this Court various orders passed not only by the Revenue Authorities but also by the civil Court and would state how an innocuous representation made in the Revision Petition has been twisted out of context to enable the second respondent to pass the impugned order. The defense that has been put forwarded is that the civil litigation between the parties was only with reference to an extent of 3 cents and that there is no finding with reference to 60 cents, in respect of which the respondents 4 to 9 would claim a right. I do not wish to set out in detail these pleadings or the arguments and would straight away proceed to discuss the issue on hand.

4. The disputed property, in respect of which the order has been passed, is an extent of 1.83 acres in S.No.242/1, Keeramangalam North Village, Alangudi Taluk, Pudukkottai District. The lands measuring an extent of 1.83 acres in the aforesaid survey number belonged to one Ramasamy Ambalakarar. He had sold the said property to one Mari Pandaram under a registered sale deed dated 19.08.1878. Mari Pandaram in October 1880 had mortgaged the property (1.33



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acres) in favour of one Oppillamani Chettiar. His son was one Katha Muthu Pandaram.

5. The said property was described as being bounded on the east by Punja lands of Vallanattu Muthuchetti Manaikattu, north by Pila Punjai, west by the house site and Pila punjai of Vallanattu Muthuchetti and south by the punja lands of Muthian Chetti, Pallikonda Vayithi and Ottankattu Murugan Chetti. It is this land that was mortgaged by the said Mari Pandaram in October 1880. Under a registered sale deed dated 11.06.1905, Katha Muthu Pandaram, S/o.Mari Pandaram sold this entire extent (1 acre and 33 cents) mortgaged to Oppillamani Chettiar to the very same Oppillamani Chettiar. In these documents, the boundaries continued to remain the same as the original sale deed dated 19.08.1878.

6. Under a registered sale deed dated 31.08.1937, Manickam Chettiar (the person, whose property was described as the western boundary) had sold an extent of 50 cents in the same survey number in favour of Kumarasamy Chettiar, S/o. Oppillamani Chettiar. Consequently, Kumarasamy Chettiar became entitled



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to a total extent of 1.83 acres in S.No.242/1. On the death of Kumarasamy Chettiar, his son Vaidyanathan Chettiar had inherited the entire extent. The lands were thereafter subjected to proceeding under Act 26 of 1948 and patta was registered in the name of K.O.K.Vaidyanathan Chettiar.

7. Katha Muthu Pandaram's son, Chokkalingam Pandaram challenged this issue of patta in favour of Vaidyanathan Chettiar before the Settlement Officer, Tanjore. The original orders passed by the Settlement Officer was subject to Revision before the Director of Settlement, Madras in R.P.No.125 of 1958 and by an order dated 30.08.1958, the matter was remitted back to the Settlement Officer to enable both the parties to adduce oral and documentary evidence.

8. In the proceeding before the Settlement Officer, it was the case of said Chokkalingam Pandaram that his father, Katha Muthu Chettiar had sold the property to Oppillamani Chettiar after retaining an extent of 60 cents on the western side and that he has been in possession and enjoyment of this extent of 60 cents for over a period of 12 years and had perfected title.



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9. The Settlement Officer on considering the documents that were placed for scrutiny, particularly the sale deed executed by Katha Muthu Pandaram in respect of the land purchased by Mari Pandaram under Ex.A1, the 'Othi' executed by him under Ex.A2 and the sale deed executed by Katha Muthu Pandaram in favour of Oppillamani Chettiar, held that Katha Muthu Pandaram had not retained any portion of the property that his father, Mari Pandaram had purchased the lands under Ex.A1 while selling the same under Ex.A3 and that the description of the boundaries would clearly prove the same, as the western boundary is shown as the lands of Manickam Chettiar, who had sold the same to Vaidyanathan Chettiar under Ex.A4. Therefore, the plea of the said Chokkalingam Pandaram was rejected and directions were issued for mutation of the revenue records in the name of Vaidyanathan Chettiar. Accordingly, the revenue records were mutated and even after the updating registry scheme, the revenue records continued to reflect the name of Vaidyanathan Chettiar as the owner of the property measuring an extent of 1.83 acres in S.No.242/1.

10. It appears that the said Vaidyanathan Chettiar had permitted Chokkalingam Pandaram to occupy the extent of 3 cents in the total extent of 1.83



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acres and since Chokkalingam Pandaram had refused to vacate the premises, he had instituted a suit O.S.No.896 of 1967 on the file of the Principal District Munsif Court, Pudukkottai, for declaration and injunction, which was later transferred and renumbered as O.S.No.179 of 1974 and the suit was decreed as prayed for. Once again, the said Chokkalingam Pandaram and on his death, his legal representatives had asserted the very same plea that they were in enjoyment and possession of the western 60 cents in their own house built therein.

11. The learned Judge on considering the evidence had held that the boundary description in Ex.A1, which was the sale deed executed by Katha Muthu Pandaram in favour of Oppillamani Chettiar, clearly establishes that Katha Muthu Pandaram had not retained any portion, but had sold the entire extent set out in Ex.A1 to the said Oppillamani Chettiar.

12. This judgment and decree was taken up on appeal before the Sub Court, Pudukkottai in A.S.No.21 of 1977 and the learned Subordinate Judge, Pudukkottai, had also confirmed the said order. Aggrieved by the said judgment, Katha Muthu Pandaram's children filed S.A.No.346 of 1981 on the file of this



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Court and by judgment dated 28.06.1988, this Court was pleased to dismiss the second appeal once again reiterating the finding starting from the order of the Settlement Officer till the judgment of the learned Subordinate Judge, Pudukkottai to hold as follows:-

"Apart from this, it is seen that the boundary description under Exs A-1 and A-4 clearly established that 1 acre 83 cents in S.No.242/1 exclusively belonged to the deceased plaintiff and there is nothing to indicate that 60 cents on the western side was retained by Kathamuthu Pandaram at the time when he executed the sale deed under Ex.A-1. It is thus seen that on the strength of Ex. A1 and A4 as well as the patta proceedings, referred to above, deceased plaintiff had established his title to the suit property."

13. Therefore, all these proceedings confirmed that the legal heirs of Katha Muthu Pandaram had no right to the 60 cents as claimed by them and that they were in occupation of only an extent of 3 cents which was decreed to be handed over back to Vaidyanathan Chettiar. The woes of the petitioner herein did not end



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with the judgment in the second appeal but on the contrary continued even in the Execution Petition.

14. The petitioner had filed E.P.No.73 of 1988 seeking recovery of possession and on 29.08.2000, the delivery was taken. Thereafter, the respondents 4 to 9 had filed E.A.No.256 of 2000 under Section 47 of the Code of Civil Procedure. This petition was dismissed on 12.12.2000 and challenging the said order, the respondents 4 to 9 had filed CRP.No.248 of 2002 with a delay of 1987 days in preferring the Revision, for bringing on record the legal representatives of the deceased sixth respondent, namely Amirtham, who was the first defendant in the suit O.S.No.179 of 1974, condone the delay of 1980 days in setting aside the abatement caused due to the death of the first petitioner, namely Govindhasamy, the fourth defendant in the said suit.

15. This Court by order dated 20.10.2010 was pleased to dismiss the Revision. At that point in time, it appears that the learned counsel appearing for the respondents 4 to 9 had made a submission that their objections in Section 47 petition was not in respect of the property in respect of which the decree was



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passed, but was that the property in excess has been taken possession.

16. It appears that the learned counsel for the petitioner had represented that the delivery was taken with reference to 3 cents. Armed with this oral submission, it appears that the respondents had made an application to the third respondent to include their names in the patta on the basis of the order passed in CRP.No.242 of 2002 and in this Revision, without notice to the petitioner therein, the names of the respondents 4 to 9 have been included in the patta. The petitioner challenged the said order before the second respondent, who by his order dated 04.03.2015 directed the parties to approach the civil Court. This order was further taken up on Revision by the petitioner to the first respondent, who confirmed the order passed by the second respondent. Before the second respondent, a new defense was taken that Katha Muthu Pandaram died even before the sale deed executed in favour of Oppillamani Chettiar and therefore, the same is suspected. On these basis, after including the names of the respondents 4 to 9, the petitioner has been directed to approach the civil Court. This order has been confirmed by the first respondent.



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17. The basis of including the names of the respondents 4 to 9 and directing the petitioner to approach the civil Court is on the basis that the sale deed alleged to have been executed in the year 1905 is suspect since Katha Muthu Pandaram had died in the year 1900 and that during the Revision, it has been clearly stated that the possession has been taken only with reference to 3 cents and not the remaining extent.

18. The first argument does not even merit consideration in the light of the fact that in the very first proceeding before the Settlement Officer, the plea of Chokkalingam Pandaram, under whom the respondents 4 to 9 claim, was that his father Katha Muthu Pandaram had sold the property to Oppillamani Chettiar retaining an extent of 60 cents and this defense has continued right through until this novel defense now taken before the second respondent. At no point in time, in any of the proceedings have the respondents 4 to 9 raised any doubt about the sale deed dated 11.06.1905 executed by Katha Muthu Pandaram in favour of Oppillamani Chettiar. Therefore, the first premise on which the impugned order has been passed has to be rejected as being absurd.



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19. The next contention that the orders had been pronounced in the Revision upholding the respondents 4 to 9's right to an extent of 60 cents is totally without any basis. The Civil Revision Petition had been dismissed and there is absolutely no finding in the said order that the respondents 4 to 9 are in possession of 60 cents less the extent of 3 cents.

20. The order of the Settlement Officer dated 14.10.1958, the judgment and decree in O.S.No.179 of 1974, the judgment and decree in A.S.No. 21 of 1977 and the judgment in S.A.No.346 of 1981 had not only rejected the contention of the respondents 4 to 9 that their predecessor in title Katha Muthu Pandaram had retained 60 cents when he had executed the sale deed dated 11.06.1905 to Oppillamani Chettiar, but had gone on to hold that the petitioner herein had purchased not only an extent of 1.33 acres from Katha Muthu Pandaram but an extent of 50 cents from Manickam Chettiar thereby holding that the petitioner was entitled to an extent of 1.83 acres. Since the suit was only with reference to 3 cents out of this extent of 1.83 acres, the decree is with reference to the aforesaid extent. However, the finding of the civil Court is that the petitioner is entitled to an extent of 1.83 acres. The respondents 1 to 3 have been totally misguided and



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they have deliberately chosen to ignore the findings of the civil Court and have passed the impugned order on the basis of a nonexistent order. It is also not known as to how a joint patta has been issued in respect of 1.83 acres when the respondents 4 to 9 had made a claim only with reference to 60 cents. Therefore, the impugned orders of the District Revenue Officer, Pudukottai dated 19-09-2019 in Na.Ka.No.4557/2015/D5, the Revenue Divisional Officer, Pudukottai dated 04-03-2015 issued in Ne.Mu.A6/3491/2013 and the Tahsildar, Alangudi dated 18-01-2013 in Tho.Mu.P.T.R.143/2013/A6 are set aside and the third respondent is directed to delete the names of the respondents 4 to 9 from the patta in respect of S.No.242/1 measuring an extent of 1.83 acres.

21. In fine, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Post the matter on 12.11.2024 for reporting compliance.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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