(2009) 11 MAD CK 0100

In the Madras High Court

Case No : Writ Petition No. 14972 of 2009 and M.P. No. 1 of 2009

G. Veerabadiran and Another — APPELLANT

Vs

District Revenue Officer and Others — RESPONDENT

Date of Decision : 20-11-2009

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2010) 1 CTC 388

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : A.S. Narasimhan, for the Appellant; A. Arumugam, Special Government Pleader for Respondent No. 1; Mr. Chandrasekar for Mr. K. Mayurapriyan, Advocate for Respondent No. 2; Mr. V. Ayyadurai, Advocate for Respondent No. 3; Mr. C. Selvaraj, for Mr. A. Murali, Advocate for Respondent No. 4; Mr. K, Kumar, for Mr. G. Muthukumar, Advocate for Respondent No. 5., for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The petitioners G. Veerabadiran and G. Kalidas @ Kaliappan have filed the present Writ Petition seeking Writ of Certiorarified Mandamus, calling for the records from the file of the 1st respondent in respect of Na. Ka. No. 54635/2008 dated 20.4.2009 to quash the same and direct the first respondent to treat the petitioner''s Application dated 5.10.2007, received on 15.10.2007 from the office of the District Collector, Kancheepuram in the Public Grievances Cell and restore the petitioner''s name in respect of R.S. No. 171 which is wrongly sub-divided 171/1 to 7 and also in respect of 150/8 in Vallam Village of Thiruperumbudur Taluk, Kancheepuram District. The petitioners are brothers and both of them are owners of property situated in Vallam (A) Village of Thiruperumbudur Taluk of Kancheepuram District. They have claimed that the landed properties are under their possession and enjoyment from the date of notification issued by the Government notifying Inam Obolition Act. They have also relied upon ''A'' register maintained in the year 1962 wherein it is stated that the petitioners'' family was in possession of Survey No. 150/5, 150/8 and 171. From the date of settlement of the property by settlement officer vide ''A'' Register in the year 1962, till date they have been in possession of the property and further, none of the properties have been alienated. While so, in the year 1983, when there was updating of revenue record scheme carried out by the Government, without notice to the petitioners, Survey No. 171 came to be sub-divided and subsequently some of the extent of the properties in Survey No. 171 have been alienated and wrong entries have been made in the Revenue Records. Therefore, the petitioners presented a Petition before the Revenue Authorities on 15.10.2007 requesting them to pass orders by carrying out proper entries in the Revenue Records that the petitioners are the owners of the properties shown in Survey No. 150/5, 150/8 and 171. The first respondent took up the Application presented by the petitioners dated 15.10.2007 and passed the impugned order dated 20.4.2009 by which the first respondent had gone into several transactions taken place between various parties with reference to several registered sale deeds registered between various parties and finally passed the order declining the prayer sought for by the petitioners made in their partition dated 15.10.2007. Aggrieved by the order dated 20.4.2009, the present Writ Petition has been filed.

2. Mr. A.S. Narasimhan, learned counsel for the petitioner would submit that without considering the ''A'' register as well as the grounds and averments made by the petitioner in the Petition dated 15.10.2007, the first respondent has passed the order. Therefore, on the above ground he has prayed for setting aside the impugned order dated 20.4.2009.

3. In reply, Mr. V. Ayyadurai, learned counsel appearing for 3rd respondent has heavily contended that this Court cannot sit as an Appellate Court against the order passed by a District Revenue Officer, under Article 226 of the Constitution, because several disputed and complex questions relating to the transaction of huge properties are involved. Further the Revenue Authorities based on the Petition dated 15.10.2007 filed by the petitioner had gone in detail under all the issues and officially passed a very reasoned orders and if at all the petitioners are aggrieved by wrong entry made pursuant to the updating Revenue Records scheme in 1983, they should have approached the rightful and competent authorities contemplated under the Act immediately in the year 1983 itself Having kept quiet for more than three decades, now for the purpose of creating a cause of action, he made an Application on 15.10.2007 before the first respondent and the first respondent also by going into the details, has passed the order. Even now, it is strongly contended by the learned counsel for the 3rd respondent that, it is open to the petitioners for approaching the Civil Court for appropriate relief.

4. Mr. C. Selvaraj, learned Senior Counsel appearing for Respondent No. 4 urged this Court to dismiss the Writ Petition as it is hopelessly barred by time in as much as after missing his chance to challenge the alleged wrong entries said to

have been made during the updating of Revenue Records scheme in the year 1983, by filing an Application dated 15.10.2007 before the R.D.O., the petitioners are making unsuccessful attempt to create some cause of action, hence the present Writ Petition should not be taken up for consideration.

5. Mr. K. Kumar, learned Senior Counsel appearing for the 5th respondent has also contended that in view of the settled legal position more particularly in view of judgment in M.E.A. Mohamed Ali and Others Vs. The District Revenue Officer, The Revenue Divisional Officer and S.N. Mohamed Abdullah rep. by Power Agent A. Mubarak Ali, no Writ Court can go into the disputes relating to the entries in the Revenue Records and such entries are only for the purpose of payment of land revenues. Therefore, if the petitioners are aggrieved by the order of the first respondent, they should approach only the Civil Court and it is not for this Court to record heavy load of evidence, by which sufficient opportunities to be provided to all the parties to prove their case.

6. Mr. A. Arumugam, learned Special Government Pleader, appearing for the first respondent has also urged that the petitioners have wrongly presented the Petition dated 15.10.2007 before the first respondent, specifically mentioning that some of their properties have been wrongly subdivided and wrongly alienated during the time when the updating of revenue record scheme was undertaken in the year 1983 by the Government. The first respondent having entertained the petitioners'' Petition dated 15.10.2007 by analyzing several sale deeds executed by various parties in respect of the lands in Survey Nos. 150/5, 150/8 and 171, rightly passed the order. Therefore, the petitioners cannot agitate against the impugned order.

7. Heard both the parties.

8. It is an admitted fact that the petitioners family was in possession and enjoyment of the properties in S. Nos. 150/5, 150/8 and also land in Survey No. 171 and they do not know when the sub-division has taken place. But the petitioners have made out an Application before the first respondent on 15.10.2007 with grievances stating that some of their properties in S. Nos. 150/5, 150/8 and 171 have been wrongly alienated only during the period when updating the revenue record scheme took place in the year 1983. If that is the grievance of the petitioners, then they should have approached the competent authority in the year 1983 and presented some Petition in the year 1983. Having kept quiet for so long time, only in the year 2007 the petitioners have presented their grievance before the first respondent and accordingly the first respondent also has considered the matter in detail by going into various sale transactions taken place between various parties in respect of land situated in Survey Nos. 150/5, 150/8 and 171. Even as rightly contented by the learned counsel for the respondent, writ petitioner without challenging the validity of sale deed under which these respondents have derived valid title, cannot maintain the present Writ deserves acceptance. It is always open to the aggrieved person to approach Civil Court to decide the disputed title of their lands. Therefore, as held by the

First Bench of this Court when there is a dispute relating to the entries in Revenue Records, the parties should get their rights adjudicated in a Civil Suit and no Writ Court by sitting under Article 226 of the Constitution of India can conduct any roving enquiry by looking into various disputed sale deeds taken place between various parties. Therefore, as this Court has held in the judgment in M.E.A. Mohamed Ali and Others Vs. The District Revenue Officer, The Revenue Divisional Officer and S.N. Mohamed Abdullah rep. by Power Agent A. Mubarak Ali, , if petitioners are aggrieved by the wrong entries recorded by the Revenue Authorities on account of various alleged alienation of lands, they should approach only the Civil Court and adjudicate the matter in accordance with law, because ordinarily a Writ Petition should not be entertained against any order to rectify and entries in the Revenue Records, as such the orders do not affect the rights of any one. Hence, the parties aggrieved by such entries in the Revenue Records should get their rights adjudicated in a Civil Suit. Therefore, this Court having seen that the matter requires proper consideration of production of records, like various sale deeds, revenue documents, etc. is not inclined to entertain the Writ Petition and accordingly the same is dismissed.

In fine, Writ Petition is dismissed. Connected M.P. is closed. There is no order as to costs.