

The Tahsildar, Taluk Office, Thanjore & Others v/s G. Thambidurai & Another

Civil Appeal No. of 2017 (Arising out of S.L.P. (C) No. 35755 of 2015)

Decided On, 09 May 2017 At,

Supreme Court of India

By, THE HONOURABLE MR. JUSTICE ARUN MISHRA & THE HONOURABLE MR. JUSTICE AMITAVA ROY

For the Appellants: B. Balaji, Advocate. For the Respondents: -----

Judgment

Amitava Roy, J.

Leave granted.

2. The appellants are aggrieved by the judgment and order dated 16.4.2015 rendered by the Madurai Bench of the Madras High Court in SA (MD) No. 626 of 2011, whereby it has directed them to restore the property involved to the respondent No. 1 within a period of two months unconditionally and further to mutate it in his name in all relevant records. This verdict has reversed the pronouncement in Appeal Suit No. 125 of 2006 by which the suit being O.S. No. 299 of 2005, instituted by respondent No.1, had been dismissed. Incidentally, the suit had been decreed by the Trial Court.

3. We have heard Mr. Subramonium Prasad, learned senior counsel for the appellants, Mr. Vivek K. Tankha, learned senior counsel for the respondent No. 1 and Mr. M. Yogesh Kanna, learned counsel for the respondent No. 2.

4. The indispensable facts essential for comprehending the controversy need be gathered at the outset from the pleadings in the suit, in which the present appellants were the defendants along with respondent No. 2.

5. According to the respondent No. 1/plaintiff, the suit property bearing Survey Field No. 199/2 ad-measuring Ac. 4.59 cents and located at Village Pillayarpatti, Thanjavur Taluk belonged to his grandfather, Kailasam Sanaiyar and after his demise, he eventually being the only legal heir had been enjoying the same. It is his pleaded case that this land was taken over by the Tahsildar, Thanjavur for the government in the year 1935 vide fasli 1343 Order No. 18431/35 A3 dated 31.12.1935 for non-payment of land tax and was converted into "bought in" land. This land was later converted into "Punjai Tharisu" (Government Dry) fallow land vide order Ni-mu/164/45/A5 dated 1.3.1945 of the R.D.O., Thanjavur. Subsequent thereto, by Order L.R 158 dated 31.12.1958 of the Special Tahsildar (Loan) and Taluk 8A order vide 51/21-1-59, the Survey Field No. 199/2 was sub-divided into 199/2A ad-measuring Ac. 2.23 cents and S.F. No. 199/2B ad-measuring Ac. 2.36 cents. Following further sub-division of the suit property, the same was assigned to Karuppaiah Sanaiyar and Muthusamy Sanaiyar of Thanjavur in the year 1958. Being aggrieved by this assignment, the respondent No. 1 questioned the same before the Tahsildar, Thanjavur, who by his order R.C. 1015/91 dated 18.6.1971, cancelled the same.

6. At this, the assignees preferred appeal before the D.R.O. Thanjavur, who too dismissed the same on 7.10.1996. The Board of Revenue, to which the assignees carried their further appeal, however by its order dated. 21.10.1978 revised the determination and remanded the matter to the D.R.O., Thanjavur for re-enquiry.

7. This authority, on remand, again cancelled the assignment in favour of the Sanaiyars vide order dated 2.2.1980, whereupon they unsuccessfully appealed against the same before the Commissioner of Land Administration, Chennai, who refused to intervene by his order dated 1.4.1991. Thus, the litigation qua the assignment of the suit land in favour of Karuppaiah Sanaiyar and Muthusamy Sanaiyar culminated on 1.4.1991 with the rejection of their appeal by the Commissioner of Land Administration, Chepauk, Madras, as aforementioned.

8. It was at this stage that the respondent No. 1/plaintiff vainly pleaded with the Tahsildar, Thanjavur for restoration of the suit land to him in the capacity of being the only legal heir of the erstwhil