

In the High Court of Judicature at Madras

Dated: 12.01.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, The Chief Justice
and
The Honourable Mr. Justice M.M. SUNDRESH

Writ Appeal No. 1487 of 2014
and M.P. Nos.1 and 2 of 2014

V. M. Jayashankar ... Appellant/Petitioner

vs.

1. The Secretary to Government
of Tamil Nadu
Department of Environment and
Forest
Secretariat, Chennai 600 009.
2. The District Forest Officer
Tiruvallur Division
Tiruvallur District.
3. The Forest Range Officer
Tiruttani Range
Tiruttani, Tiruvallur District.
4. The Deputy Superintendent of Police
Anti Land Grabbing Wing
Tiruvallur, Tiruvallur District.
5. The Inspector of Police
Anti Land Grabbing Wing
Tiruvallur, Tiruvallur District.

.. Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 01.08.2014 passed by the learned Single Judge, in Writ Petition No.6046 of 2013 on the file of this Court.

Prayer in WP No.6046/2013: Writ Petition filed under Article 226 of the constitution of India praying for the issuance of a writ of declaration declaring the impugned notification in Thiruvallur District Gazette (Forest Notification) Errata Notification dt 1.3.2012 as null and void by calling for the records pertaining to the Thiruvallur District Gazette (Forest Notification) Errata Notification dt 1.3.2012

For Appellant : Mr. A. Thiagarajan, Sr. Counsel
for Mr. S. Ramesh Kumar
For Respondents : Mr. M.K. Subramaniam
Spl. Govt. Pleader (Forests) - R1to3
Mr. Shanmugasundar
Govt. Advocate for R4 & R5.

J U D G M E N T

(Delivered by The Hon'ble The Chief Justice)

The dispute pertains to 7.05 acres of land located in Punja Survey No.140 in No.52, Venugopalapuram Village bearing Patta No.171 within Thiruvallur District, which are stated to have been purchased by the appellant vide a Sale Deed dated 14.11.2008. As to the titles of the appellant, we had called upon him to file the relevant documents. On perusal of the additional set of documents filed, it is quite apparent that the vendors of the appellant had only Chitta, Adangal and Patta of the land and no specific title. This land has been declared as forest land and thus, is incapable of transfer.

2. The plea of the appellant is solely predicated on the Notification of forest land, which had an errata, leading to a subsequent correction. The writ petition impugns this correction and the plea of the appellant was rejected vide the impugned order of the learned single Judge dated 01.08.2014. The discussions qua the relevant survey numbers are contained in paragraph 7 of the impugned order, which read as under:

"7. It is seen from the records that soon after disposal of the earlier WP No. 8788 of 2011 by this Court on 08.04.2011, by letters dated 18.05.2011 and 07.06.2011, the second respondent has categorically stated that the lands in question were classified as Reserved forest land and any document registered or patta issued in favour of any individual after such declaration will not be valid. The petitioner did not accept such a reply given by the respondents and filed the contempt petition No. 1969 of 2011. Therefore, pending the contempt petition, the erratum notification dated 01.03.2012 was issued by the respondents 1 to 3. The explanation offered by the respondents 1 to 3 for issuing the erratum notification on 01.03.2012 is justifiable and acceptable. According to the respondents 1 to 3, the Survey No.40 was mentioned twice in the original gazette publication dated 01.05.1969. It is explained that the item Nos. 1 to 6 in the gazette notification dated

01.05.1969 have been indicated in ascending order. In that fashion, item Nos. 1 to 6 were arranged and the 7th item relates to the land in Survey No.40. However, again, the Survey No.40 was mentioned in item No.32 instead of "140". In fact, the measurement of the land in Survey No.40 in item No.32 is 7.05 acres, whereas, the land in Survey No.40 indicated in item No.7 differs in terms of extent of the land. Therefore, it is clear that the land indicated in item No.32 ought to have been mentioned as Survey No.140, instead it was wrongly mentioned as "Survey No.40". The petitioner, knowing fully well that the land belong to Forest Department has purchased the same by taking advantage of the typographical mistake crept in the gazette publication made on 01.05.1969. Immediately after purchasing the lands, the petitioner sold it out to various individuals to achieve personal gain. In those circumstances, the respondents 1 to 3 have rightly issued the erratum notification to correct the mistake crept in the original notification dated 01.05.1969 in respect of the land in Survey No.140 and I do not find any reason to interfere with the same."

3. It is in the aforesaid circumstances that the learned single Judge has opined that the land having been declared as reserved forest land, Patta, Chitta and Adangal stand in the name of the vendors cannot give any right to transfer the land by a sale deed in favour of the appellant. We also note the fact they the appellant had already executed sale deeds in favour of third parties.

4. Learned Special Government Pleader for the respondents states that the land is in their possession and even having been planted upon.

5. In view of the aforesaid, we find no merit in the appeal and the same is accordingly dismissed. No costs. Consequently, M.P.Nos. 1 and 2 of 2014 are also dismissed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

ATR

Copies to;

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Tiruvallur, Tiruvallur District.

+1cc to Mr.S.Ramesh Kumar, Advocate Sr 2127
+1cc to Spl. Govt. Pleader (Forest) SR 1678

BR(CO)
km/23.1.

W.A. No. 1487 of 2014

सत्यमेव जयते

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