

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28826 of 2013

Shankarlal Sharma

... Petitioner

vs.

1. The Collector,
Krishnagiri District,
Hosur Taluk.

2. The Thasildar,
Krishnagiri District,
Hosur Taluk.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the rejection of patta in Na.Ka.No.9723/2013/C3 dated 26.06.2013 of the petitioner and quash the same and direct the 2nd respondent to issue the patta in the name of the petitioner in respect of the property comprised in Survey No.56/3 with an extent of 4 Acres and 3 cents of Dhinnapalli Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader.

O R D E R

Heard Mr.D.Rajagopal, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

2. The petitioner seeks for issuance of writ of certiorarified mandamus to quash the order passed by the 2nd respondent dated 26.06.2013. The facts of the case are that the petitioner has purchased the property bearing Survey No.56/3. Before purchasing the property, the petitioner approached the Village Administrative Officer, who informed the petitioner that there was no land acquisition proceedings and the property does not stands in the name of the temple. The petitioner would state that even prior to entering into an agreement with the vendor, the petitioner had perused all the relevant document including the encumbrance certificate etc., and after verifying and satisfying himself with the title of the vendor, has purchased the property and he is a bonafide purchaser of the property for valuable consideration. Further it is submitted that the petitioner continues to be in possession of the property purchased ever since the sale deed was executed. With these facts, the petitioner has approached the respondents for grant of patta. The 2nd respondent by the impugned order, rejected the petitioner's application stating that the legal heirs of the original land owner Pasupathi Dheekshidar has violated the conditions mentioned in the A Register and the land is a temple property and therefore, the question of granting patta does not arise.

3. In the counter affidavit filed by the respondents, the averments set out in the impugned order have been reiterated and it is contended that the failure of the original grantee cannot be taken advantage of the petitioner, who is a subsequent purchaser.

4. The learned counsel for the petitioner after reiterating the factual contentions, produced the copies of patta issued in favour of similarly placed persons in respect of the same property and in this regard patta issued in 2013 and 2015 were referred to.

5. On a perusal of the additional typed set of papers containing copy of those patta, it is seen patta have been issued in favour of that parties and it is stated that those patta relates to the same property, which has been subsequently sub divided. However, there is no corresponding record to show that S.No.23/2A2 etc., are sub division of S.No.56/3.

6. The learned Special Government Pleader, on instructions, submitted that the officers of the respondent department have collected all the papers with regard to the patta issued in favour of the other persons, but there is no written instructions in this regard.

7. It is to be pointed out that the impugned order has been passed without even providing the details of the objections, which said to have been made by one K.S.Venkatesh. Therefore, it is clear that there has been violation of principles of natural justice while passing the impugned order.

8. For the above reasons, this Court is inclined to set aside the impugned order and remand the matter for fresh consideration to the second respondent. Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remanded to the 2nd respondent for fresh consideration. The 2nd respondent shall issue notice to the petitioner calling upon the petitioner to appear before him in person and after conducting enquiry and hearing the petitioner in person, shall pass orders on merits and in accordance with law. While doing so, shall take note of the pattas said to have been issued in favour of other persons which is stated to be in respect of the same properties purchased from the common vendor. The above direction shall be complied within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Collector,
Krishnagiri District,
Hosur Taluk.
2. The Thasildar,
Krishnagiri District,
Hosur Taluk.

+1cc to M/s.D.Rajagopal, Advocate, S.R.No.15241
+1cc to the Government Pleader, S.R.No.15146

W.P.No.28826 of 2013

RSK(CO)
CA(24/03/2015)