

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 23.02.2018
Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.95 of 2014
and M.P.No.1 of 2014

University of Madras
represented by its Registrar
Chepauk
Chennai 600 005.

.. Appellant

Vs.

1.S.Alauddin

2.The Special Commissioner and
Commissioner for Land Administration
Chepauk, Chennai 600 005.

3.Government of Polytechnic,
represented by its Director
O/o the Directorate of Technical Education
DOT, Anna University Campus
Guindy, Chennai 600 025.

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 05.02.2013 made in W.P.No.25067 of 2003, on the file of this Court.

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified to call for the records relating to the respondents proceedings in NI.MU(K1)/51533/2001/128/3 dated 24/03/2003 and quash the same.

For Appellant : Mr.K.Ramanraj

For R1 : No appearance

For R2 and R3 : Mr.V.Anandhamurthy
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN,
J.]

The first respondent challenged the order passed by the Commissioner of Land Administration invoking suo motu jurisdiction and cancelling patta in W.P.No.25067 of 2003. The learned Single Judge, throughout the order made it clear that the first respondent has to approach only the Civil Court. However, after saying so, in the concluding paragraph, the learned Single Judge quashed the impugned order passed by the Commissioner of Land Administration. The order is under challenge by the beneficiary of the land after taking leave.

2. This appeal came up for final disposal on 22 February, 2018. We have heard the learned counsel for the appellant. Since there was no representation on behalf of the first respondent, we have adjourned the matter to be posted today under the caption "For Orders". Even today, none appears on behalf of the first respondent.

3. The learned counsel for the appellant contended that 51.64 acres of land in S.Nos.310/1,2,3 Kottivakkam Village, was allotted to the Technical Education Department, University of Madras for starting an institute of basic medical science. The land was allotted as per order in G.O.Ms.No.469 dated 10 March, 1967 and the subsequent order in G.O.Ms.No.1786 Health dated 21 July, 1973. The University took possession of the land and constructed a compound wall. Though the land is in the possession and enjoyment of the University, the learned single Judge quashed the order passed by the Special Commissioner.

4. The Assistant Settlement Officer, Tiruvannamalai appears to have issued patta in favour of S.Alauddin in respect of 1.33 acres of land in S.No.310/3, Kottivakkam Village, which was already allotted to the appellant by the Government.

5. The Special Commissioner and Commissioner of Land Administration, Chennai initiated suo motu proceedings under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and after issuing notice to the first respondent, cancelled the order passed by the Assistant Settlement Officer, Tiruvannamalai, granting patta. The Commissioner directed the land records to be corrected to restore the earlier position.

6. The order passed by the Commissioner of Land Administration was challenged by the first respondent before the writ court in W.P.No.25067 of 2003.

7. Before the writ court, the first respondent contended

that the Commissioner of Land Administration has no jurisdiction to initiate suo motu proceedings under the Tamil Nadu Act 21 of 1948. The appellant was not a party to the writ petition. The learned Single Judge opined that it would not be possible to decide the question of title and possession in a writ petition filed under Article 226 of the Constitution of India and the proper course available to the first respondent is only to approach the Civil Court. After saying so, the learned Single Judge, without any finding with regard to the powers exercised by the statutory authority, quashed the impugned order passed by the Commissioner of Land Administration.

8. The first respondent raised a question with regard to the suo motu jurisdiction of the Commissioner of Land Administration under Act 21 of 1948. The said issue is no more res integra in view of the Full Bench judgment of this Court dated 24 July 2007 in Special Commissioner and Director of Survey and Settlement, Chempauk vs. M.Arumugam [2007 (4) CTC 538]. The Full Bench made it very clear that the authorities under the Act, have suo motu powers to interfere with the orders passed by the lower authorities. Such being the legal position, the first respondent cannot be heard to say that the Special Commissioner and Commissioner of Land Administration erred in exercising suo motu power under Act 21 of 1948.

9. The learned counsel for the appellant during the course of his submission pointed out that the predecessor interest of the first respondent appears to have purchased the land. The name of the purchaser was shown as Abdul Khader Sahib. However, in the patta, the name of Abdul Rahman was shown. This discrepancy was explained by the first respondent before the writ court by stating that it was a typographical error.

10. The learned Single Judge was fully justified in his finding that the issue requires to be decided only by a Civil Court. The land was allotted to the appellant long back. It is for the first respondent to file a comprehensive suit to declare the title, if he is so advised. It would not be possible to decide the issue raised by the first respondent in a writ petition challenging the order passed by the Commissioner. Even though we are in agreement with the views expressed by the learned Single Judge, the course available to the first respondent is only to approach the Civil Court. We are not inclined to agree with the view subsequently taken by the learned Single Judge by quashing the order passed by the Commissioner of Land Administration. We are, therefore, of the view that the impugned order is liable to be set aside.

11. We confirm the order passed by the Commissioner, Land Administration dated 24 March, 2003 setting aside the order passed by the Assistant Settlement Officer, Tiruvannamalai, dated 16 March, 2001 granting patta in the name of S.Alauddin. We set aside the order dated 05 February, 2013. The writ petition in W.P.No.25067 of 2003 is dismissed.

The intra court appeal is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Special Commissioner and
Commissioner for Land Administration
Chepauk, Chennai 600 005.

2.The Director
Government of Polytechnic,
O/o the Directorate of Technical Education
DOT, Anna University Campus
Guindy, Chennai 600 025.

3.The Registrar
university of Madras
Chepauk
Chennai 600 005

+1 cc to Mr.K.Ramanraj Advocate sr 13901

W.A.No.95 of 2014

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aa13/04/2018