

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.971 of 2013 and
MP No.1 of 2013

- 1.The District Collector,
Tiruchirapalli on behalf of the
Department of Adi Dravidar and
Tribal Welfare Department,
Government of Tamilnadu,
Tiruchirapalli.
- 2.The District Adi Dravidar and
Tribal Welfare Officer,
Collector's Office, Tiruchirapalli.
- 3.The Special Tahsildar,
(Adi Dravidar and Tribal Welfare)
Collector Compound, Tiruchirapalli.
- 4.The Tahsildar,
Taluk Office, Tiruchirapalli. ... Appellants

-vs-

- 1.B.Mohamed Sherif (Deceased)
- 2.Sahul Hameed
- 3.Nathar Sha
- 4.Fathima Gani
- 5.Farzila
- 6.Nashmeera .. Respondents

(Respondents 4 to 6 brought on records as LR's of the deceased
1st respondent vide order of this Court dated 01.03.2018
made in CMP No.15692/2016 in W.A.No.971/2013)

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P No.47033 of 2002 dated 18.04.2013. Writ Petition issue under Article 226 of the constitution of India praying for the issuance of a writ of certiorarified Mandamus to call for the records of the first respondent dated 24.3.1997 made in RC.W6/14580/97, approving the purchase by private negotiation of the lands measuring 3.20.0 hectares in Survey No.574/3 of Suriyur Village, Thiruchirappalli Taluk, Tiruchirappalli District and consequent purchase of the same by the first respondent under

Sale Deed No.1061/1997 dated 15.4.1997 registered as such in the office of the Sub-Registrar, Tirverambur, Tiruchirappalli Taluk, Tiruchirappalli District and first respondent to restore the said lands measuring 3.20.0 hectares to the petitioner.

For Appellants : Mr.VijayNarayan
Advocate General
Assisted by
Mr.T.N.Rajagopalan
Addl.Govt.Pleader

For Respondents: Mr.K.Radhakrishnan
for R4 to R6

J U D G M E N T

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

Introductory

It is the usual practice of the Government authorities to direct the land owners to approach the Civil Court under Section 30 of the Land Acquisition Act for payment of compensation in case there is a little doubt about the title or the possessary right of the claimant in respect of the property acquired. However, in the subject case, the District Collector, District Revenue Officer and the Land Acquisition Officer purchased the property by way of private sale from the respondents 2 and 3 on the basis of revenue records alone without verifying the title. When a challenge was made at the instance of the first respondent to the private sale made by the Government, the learned single Judge directed the Central Bureau of Investigation to register a case, investigate and prosecute the officials concerned and the vendors, who were involved in the alleged fraudulent transaction. The order is under challenge at the instance of the District Collector, Tiruchirappalli and other authorities involved in the process of private sale.

Brief Facts

2. The first respondent filed a writ petition in W.P.No.47033 of 2002 challenging the private sale of his land in S.No.574/3 of Suriyur Village, Tiruchirappalli Taluk. The first respondent contended that the land purchased by way of private sale by the Government on 15 April 1997 absolutely belongs to him and the vendors have no right to convey the property to the Government. The first respondent has produced voluminous documents to substantiate his contention that he is the rightful owner of the property in question. Before the Writ Court, the Special Tahsildar, Tiruchirappalli filed a counter affidavit justifying the sale. The counter affidavit proceeds as if the respondents 2 and 3 were the owners of the property on the basis of Adangal, Patta and other UDR records.

3. The learned single Judge found that there was no serious challenge to the claim made by the first respondent on the basis of the documents. The learned Judge therefore directed the Government to cancel the Sale Deed and to take disciplinary as well as criminal proceedings against all concerned. There was a further direction to restore the possession of the land to the first respondent.

Discussion

4. This is a strange case of a private sale by respondents 2 and 3 and purchased by the Government authorities with public money without verifying the title. This appeal was heard at length on 3 July 2018. The learned Advocate General fairly conceded that only on the basis of documents relating to possession, the District Collector and other authorities entered into a private sale with the respondents 2 and 3. The learned Advocate General submitted that the District Collector and the Revenue Divisional Officer believed their subordinates and without looking into the matter in detail, the land was purchased. When it was pointed out as to whether the Government still wanted the land in question inspite of the serious dispute to the title, the learned Advocate General took time to take instructions from the Government.

5. When the appeal is taken up for hearing today, the learned Advocate General produced a copy of the proceedings dated 4 July 2018 issued by the District Collector, Tiruchirapalli, cancelling the allotment of land to the beneficiaries. The learned Advocate General on the basis of the proceedings dated 4 July 2018 submitted that the Government is willing to hand over vacant possession of the land to the first respondent. The learned Advocate General further submitted that it would not be possible for the Government to cancel the Sale Deed unilaterally and as such, requested this Court to issue appropriate direction for cancellation of the Sale Deed in question.

6. The learned counsel for the respondents 4 to 6, who are the legal representatives of the deceased first respondent fairly submitted that the claimants would be satisfied in case the possession of land is given to them without Encumbrance.

7. The factual matrix very clearly indicates that the authorities have not made any attempt to verify the title of the property in question before paying money from the State treasury. The respondents 4 to 6 have produced a copy of the document registered as Document No.2741 of 1981. The said document clearly shows the extent of land in S.No.574/3 purchased by the respondents 2 and 3. They have purchased only 0.23.5 hectares of land. However, they sold 3.20.0 hectares of land to the Government. The authorities have not cared to verify the Encumbrance and the Title Deed of the respondents 2 and 3 before purchasing the land by way of a private sale.

In case, they have verified all those documents, it would be clear that the respondents 2 and 3 have not purchased the entire extent of 3.20.0 hectares in S.No.574/3. Not even a legal opinion was taken before purchasing the land. We are not imputing any motive to the District Collector, the Revenue Divisional Officer or other officers involved in the transaction. We only express our concern that none of these officers have made an attempt to verify the title to the property before purchasing the land by way of a private sale. This case should be an eye opener to the Government officials.

8. The Government have now decided to abandon the proposal of allotment of houses to the downtrodden by making use of the subject land. The Government also agreed to put the legal heirs of the first respondent in vacant possession of the land. We are therefore of the view that interest of justice would be sub served by directing the Sub-Registrar, Tiruchirapalli to cancel the Sale Deed No.1061 of 1997 and the Government to put the legal heirs of the first respondent in vacant possession of the land.

9. We direct the Sub-Registrar, Tiruchirapalli to cancel the Sale Deed No.1061 of 1997 forthwith and make necessary endorsement in the records and send a copy to the jurisdictional Tahsildar for taking follow up action to restore the earlier entries in the revenue records. We also direct the appellants to put the legal heirs of the first respondent in vacant possession of the land within a period of two months from the date of receipt of a copy of this judgment.

10. We set aside the direction issued by the learned single Judge for investigation by the Central Bureau of Investigation. We also expunge the adverse remarks made by the learned single Judge taking into account the conduct of the District Collector and the District Adi Dravidar and Tribal Welfare Officer, Tiruchirapalli and the other officials involved in the process of private sale.

11. We make it clear that this judgment would not stand in the way of approaching the Civil Court by the concerned parties for declaration of title.

12. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

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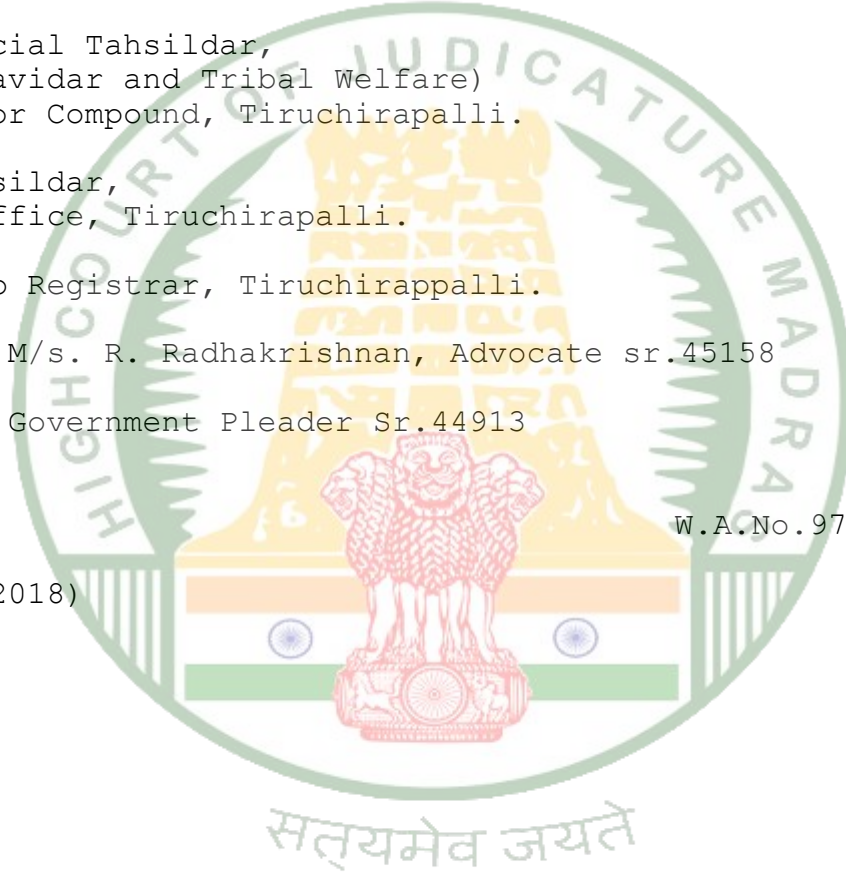
Sub Assistant Registrar

TO

- 1.The District Collector,
Tiruchirapalli on behalf of the
Department of Adi Dravidar and
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 - 4.The Tahsildar,
Taluk Office, Tiruchirapalli.
 5. the Sub Registrar, Tiruchirappalli.
- + 1 cc to M/s. R. Radhakrishnan, Advocate sr.45158
- + 1 cc to Government Pleader Sr.44913

VSNII (CO)
EU(30/07/2018)

W.A.No.971 of 2013



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