



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.07.2019

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THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.25224 of 2008 &
M.P.No.1 of 2008

Vasu. Rajendran

..Petitioner

VS

1.The District Revenue Officer,
Ariyalur District at Ariyalur.

2.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

3.The Tahsildar,
Jeyankondam,
Ariyalur District.

4.Mrs.Ezhilarasi

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the District Revenue Officer, Ariyalur District at Ariyalur and made in Na.Ka.B2/965/08, dated 29.08.2008, the first respondent herein and quash the same and consequently direct the respondents herein to issue single patta in patta No.1277 and with respect to the properties comprised in S.No.266/2, Andimadam Village and S.No.377/32, Vizhanthai South Village, Ariyalur District subject matter of purchase by the petitioner herein as per the sale deed dated 02.09.2001 and registered as Doc.No.1681/2001 on the file of Sub Registrar, Andimadam along with other co-owners of the aforesaid properties.



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For Petitioner : Mr.N.Damodaran

For Respondents : Mr.A.N.Thambidurai
Special Government
Pleader for R1 to R3

No appearance for R4

O R D E R

The prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus to quash the order of the first respondent, dated 29.08.2008 and consequently direct the respondents to issue single patta in patta No.1277 with respect to the properties comprised in S.No.266/2, Andimadam Village and S.No.377/32, Vizhanthai South Village, Ariyalur District, subject matter of purchase by the petitioner as per the sale deed dated 02.09.2001 and registered as Doc.No.1681/2001 on the file of Sub Registrar, Andimadam along with other co-owners of the aforesaid properties.

2. It is a case of the petitioner that the properties in Survey No.266/2 in Andimadam Village and in S.No.377/2 at Vizhanthai Village were originally owned by one Kothandaraman. After the death of the said Kotandaraman, his legal-heirs, the fourth respondent and her sons Selva Gandhi and Sankar acquired the said properties.

3. The petitioner would further state that the wife of said Kothandaraman executed a Power of Attorney in favour of one Thanga Anandan and the same was registered as Document No.3 of 2001, on the file of Sub-Registrar, Andimadam, on 28.03.2001. Pursuant to the execution of Power of Attorney, the Power Agent sold the properties to an extent of 1230 1/2 sq.ft in S.No.266/2, Andimadam Village and to an extent of 2430 sq.ft in S.No.377/32, Vizhanthai Village in favour of the petitioner, by registered sale deed on 02.09.2001. It is further stated that the Power Agent sold another portion of the properties in the above said Survey Numbers in favour of one Kasinathan and Balasubramaniam.

4. The petitioner would allege that when he applied for a joint patta, the fourth respondent opposed the same by stating that the Power of Attorney was a forged document and it was cancelled. According to the petitioner, the Power of Attorney, dated 28.03.2001 was cancelled by a deed of cancellation on 03.03.2003 on the ground that the Power Agent did not render accounts and failed to pay the sale consideration. The third respondent accepting the objection of the fourth respondent,



rejected the application of the petitioner for issuing a join patta, however, the second respondent allowed the appeal, by his proceedings dated 21.12.2004. On a revision filed by the fourth respondent, the impugned order came to be passed by the first respondent on the ground that on the date of execution of Power of Attorney, the fourth respondent did not have right over the property.

5. Mr.N.Damodaran, learned counsel for the petitioner would state that when the sale deed was executed by the Power Agent on 02.09.2001, the Power of Attorney was in force, but it was cancelled by a deed of cancellation only on 03.03.2003. It is further submitted that in respect of other sale deeds executed in favour of one Kasinathan and Balasubramaniam, the fourth respondent did not raise any objections for issuance of joint patta. It is further contended that the reasons given by the first respondent for cancellation of the order passed by the second respondent is arbitrary and liable to be set aside.

6. Mr. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 3 would contend that even though the fourth respondent and her sons Selva Gandhi and Sankar were legal-heirs of the deceased Kothandaraman, noting on record to show that they acquired the property after the death of the said Kothandaraman. Hence, there is no illegality in the order passed by the first respondent, which is impugned in the Writ Petition.

7. Considered the rival submissions and perused the materials placed on record.

8. Despite service of notice on the fourth respondent and name of the counsel has been printed in the cause list, none appeared for the fourth respondent, when the case was listed on 19.06.2019 and 05.7.2019. Hence, the matter is posted under the caption "for orders" and even today, there is no representation on behalf of the fourth respondent.

9. In the instant case, it is not in dispute that the lands comprised in Survey No.266/2 of Andimadam Village and Survey No.377/32 at Vizhanthai Village were originally belonged to Late Kothandaraman and after his demise, the fourth respondent and her two sons acquired the property. It is also not disputed that the fourth respondent executed a Power of Attorney in favour of one Thanga Anandan by a registered Deed dated 28.03.2001 and her sons signed as witnesses. It is also equally not in dispute that the petitioner purchased portion of the properties through the Power Agent by a registered sale deed, dated 02.09.2001.



10. The second respondent while rejecting the objections raised by the fourth respondent has categorically held that when the sale deed was executed in favour of the petitioner, the Power of Attorney was in force and if the fourth respondent has any grievance, she can approach the Competent Civil Court. It is not the case of the fourth respondent that after the demise of her husband Kothandaraman, the property was not devolved on his legal heirs viz., the fourth respondent and his sons. Hence, the only reason given by the first respondent in the impugned order cannot be countenanced. It is pertinent to note that the sale deed executed in favour of the petitioner has not been challenged in the manner known to law. The first respondent, without considering those aspects, has set aside the order of the second respondent.

11. In the light of the above facts, in the considered opinion of this Court, the petitioner is entitled to succeed in this Writ Petition. In that view, the order impugned in this Writ Petition is set aside and the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Rns

To

1.The District Revenue Officer,
Ariyalur District at Ariyalur.

2.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

3.The Tahsildar,
Jeyankondam,
Ariyalur District.

+lcc to the Government Pleader, S.R.No.58078

SKV(CO)
CB(03/09/2019)

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