

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.08.2019
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.813 of 2010

K.Nagaraj

...Petitioner

Vs

1. Deputy Tahsildar,
Bhavani Taluk,
Erode District.
2. K.Parameswaran

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the entire records relating to the proceedings of the Deputy Tahsildar, Bhavani Taluk, Erode District and made in Ni.Mu.R.T.R.854/2009, dated 12.11.2009, the first respondent herein and quash the same.

For Petitioner : Mr.N.Damodaran
For Respondents : Mr.B.Anand, G.A., for R1
Mr.A.R.Suresh, for R2

ORDER

The petitioner has come forward with this Writ Petition for issuance of a Writ of Certiorari to quash the order of the first respondent made in Ni.Mu.R.T.R.854/2009, dated 12.11.2009.

2. The case of the petitioner is that he along with his brother, the second respondent herein, jointly purchased a property measuring an extent of 43 1/2 cents in new R.S.No.7/2, old S.Nos.510 and 511, of Salangapalayam Village, Bhavani Taluk. The petitioner would claim that the second respondent had executed a registered release deed dated 15.03.1996 in respect of his half share in favour of the petitioner after receiving a consideration of Rs.15,000/-. Since then, he has been in exclusive possession and enjoyment of the same.

3. It seems that the said release deed dated 15.03.1996 was cancelled by the second respondent on 22.12.2008 and the same was challenged by the petitioner in a suit in O.S.No.243 of 2009 before the Principal District Munsif, Bhavani.

4. The learned counsel for the petitioner would argue that in the suit, the competent Civil Court declared the right

of the petitioner and thereafter no appeal was filed. Hence, it attained finality. It is further contended that the first respondent had already issued a patta in favour of the petitioner, but by the impugned order, the second respondent has been included as joint pattadar.

5. The learned Government Advocate would submit that if the petitioner approaches the first respondent with relevant documents, he is ready to consider the grievance of the petitioner.

6. Perusal of the order impugned in this Writ Petition would reveal that the first respondent without issuing notice to the petitioner passed the impugned order, in violation of the principles of natural justice. Hence, the order of the first respondent is liable to be set aside. Accordingly, it is set aside and the matter is remanded back to the first respondent and he shall pass orders afresh within a period of eight weeks from the date of receipt of a copy of this order, in accordance with law, after providing an opportunity of hearing to the petitioner as well as to the 2nd respondent.

7. With the above observation and direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pvs
To

The Deputy Tahsildar,
Bhavani Taluk,
Erode District.

+1 cc to M/s.Government pleader sr68072

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