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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD).No.12982 of 2016

Navis Rajakumari,
W/o. Late K.Francis Ignatious Roach,
Door No.5/10,
Sasthri Nagar,
Kovilpatti Town,
Thoothukudi District,
Rep. through her Power Agent,
Mr.K.Narayanan,
S/o.M.Kumarasamy,
No.54-H/6th Street,
Rajiv Nagar, Kovilpatty,
Thoothukudi District. .. Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul District,
Dindigul.

3.The Tahsildar,
Dindigul East Taluk,
Dindigul.

4.Manuvel Jayaraj .. Respondents
(Respondent 4 is impleaded vide Court order dated 06.09.2018 in WMP (MD)No.2575 of 2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order of the first respondent in Na.Ka.No.11816/2014/A4, dated 04.07.2016 and quash the same as illegal and consequently directing the second respondent to conduct enquiry on the petitioner's application dated 22.10.2012.

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For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.A.L.Ganthimathi
For Respondents 1 to 3 : Mr.A.Muthukaruppan
Additional Government Pleader
For Respondent 4 : Mr.V.R.Venkatesan

ORDER

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the proceedings of the first respondent dated 04.07.2016 and consequently to direct the second respondent to conduct enquiry on the petitioner's application dated 22.10.2012.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

2.1.The petitioner states that her husband was allotted an extent of 195 acres in Survey No.753/1B in Sirumalai Village, Dindigul. It is stated that the property originally belonged to Ammayanayakkar Jameen and later to one Somasundaram Pillai son of Vairavanatha Pillai. It is stated that one Somasundaram Pillai son of Vairavanatha Pillai got the property by inheritance. It is not in dispute that the said Somasundaram Pillai was the original owner and on his demise, his son by name Poornalingam succeeded to the estate. It is stated that the said Poornalingam sold the property to one Kovil Pillai by a sale deed dated 18.08.1994. The family of the petitioner's husband appears to have purchased the property by way of registered sale deed dated 18.08.1994. The petitioner states that later in a family partition, the petitioner's husband was allotted the entire extent that was purchased on 18.08.1994.

2.2.After the execution of the sale deed by Thiru.Poornalingam, son of Somasundaram Pillai, it appears that the sale deed that was executed on 18.08.1994 had been unilaterally cancelled by the vendor himself by another document dated 19.04.1999. It was thereafter the said Poornalingam, the vendor of the petitioner's predecessor in interest through his power of attorney by name Pasupathi Pandi executed several sale deeds including the sale in favour of the fourth respondent. Earlier, the petitioner himself submitted a representation before the first respondent. Based on the representation, this Court directed the first respondent to consider and pass order even though the first respondent is not a competent authority under the Tamil Nadu Patta Passbook Act to modify the records. Strangely, the first respondent after recording the fact that the sale deed in favour of the petitioner's predecessor in interest on 18.08.1994 had been unilaterally cancelled by the vendor

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himself passed the impugned order dated 04.07.2016 rejecting the representation of the petitioner. Though the District Collector has observed that he could not ascertain whether the cancellation of the sale deed is proper or legal, held that the issues pertaining to the title and rights should be decided by the Civil Court. Challenging the same, the present Writ Petition is filed by the petitioner. In the counter affidavit, the fact that the previous sale deed was unilaterally cancelled by the said Poornalingam is not disputed and it is stated that the earlier sale which was cancelled later is a sham and nominal document.

3.It is to be noted that pursuant to the sale deed obtained by the fourth respondent, patta has been changed in favour of the fourth respondent. The question whether a sale deed which was executed in 1994 can be unilaterally cancelled even by the vendor himself is no more *res integra* as this Court had occasions to deal with the issue and consistently held that such unilateral cancellation of a sale deed is void and in several writ petition the prayer for declaration as to the invalidity of the sale deed had been allowed by this Court. In such circumstances, on the basis of the admitted facts, this Court is of the view that unilateral cancellation of the registered sale deed dated 18.08.1994 by document dated 22.04.1999 is void. The consequence that would follow is that the revenue records stands prior to the unilateral cancellation should be restored. In that view of the matter, though this Court is not inclined to go into the question of possession or enjoyment of the property which will have a bearing in deciding the rights of the parties, set aside the order passed by the District Collector, dated 04.07.2016 as the order is without jurisdiction. However, in stead of remitting the matter to second respondent, direct the respondents to restore patta in the name of Somasundaram Pillai, the original owner. In cases like this, the parties are expected to approach the Civil Court for appropriate relief.

4.The District Collector has ultimately directed the parties to approach Civil Court. This Court having regard to the provisions of the Tamil Nadu Patta Passbook Act, regarding modification of revenue records and the fact that the property originally belonged to Somasundaram Pillai son of Viravanatha Pillai, direct the restoration of patta in the name of Thiru.Somasundaram Pillai, father of Poornalingam. The property admittedly stood in the name of Somasundaram Pillai at the time when the petitioner's predecessor in interest purchased the same in 1994. The unilateral cancellation of the sale deed dated 18.08.1994 being held as invalid and void, this Court has no other option but to hold that the revenue record should be restored in the name of Somasundaram Pillai. Since this Court has given liberty to the parties to approach the Civil Court for appropriate relief, the Civil Court may consider the rights of the parties in accordance with law uninfluenced by any of the observations or findings in this order.

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5.As a result, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

SRM

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul District,
Dindigul.

3.The Tahsildar,
Dindigul East Taluk,
Dindigul.

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-104779[F] dated 13/12/2019)

+1 CC to M/s.M/S.V.R.VENKATESAN, Advocate (SR-105151[F] dated 16/12/2019)

ORDER MADE IN
W.P.(MD)No.12982 of 2016
12.12.2019

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TR(19.12.2019)4P 6C

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