

In the High Court of Judicature at Madras

Dated : 03.3.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.32738 of 2013

Gnanambal

...Petitioner

Vs

1.The Principal Secretary and
Commissioner of Land
Administration, Chepauk, Chennai-5.

2.The District Revenue Officer,
Sivaganga District, Sivaganga.

3.The Revenue Divisional Officer,
Devakottai, Sivaganga District.

4.The Tahsildar, Tirupathur Taluk,
Sivaganga District.

5.Peri.Subramanian ...Respondents

PETITION 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 proceedings of the 1st respondent bearing D.Dis.No.K4/RP12/2004 dated 04.11.2013 confirming the order of the 2nd respondent bearing Na.Ka.No. B1/42872/2002 dated 07.1.2013, quash the same and consequently direct the respondents to restore the order of the third respondent dated 29.4.2002 granting patta to the petitioner in respect of the lands admeasuring 7.5 cents comprised in Survey No.55/22 situate in N.Melayur Village, Naduvikottai PO, Thirupathur Taluk, Sivagangai District.

For Petitioner : Mr.S.Mohan

For Respondents 1 to 4: Mrs.A.Madhumathi, SGP

For Respondent-5 : No appearance

ORDER

I have heard the learned counsel for the parties.

2. The petitioner has filed this writ petition challenging the order passed by the first respondent dated 04.11.2013 confirming the order passed by the second respondent dated 07.1.2013.

3. The petitioner made a claim for grant of patta in respect of S.F.No. 55/22, N.Melayur Village, Naduvikottai PO, Thirupathur Taluk, Sivagangai District measuring an extent of 0.02.94 hectares. Based on a representation given by the petitioner, the third respondent considered the petitioner's claim and by order dated 29.4.2002, granted patta in favour of the petitioner. This was challenged by the President of the Village Panchayat by filing a revision before the second respondent. The Revisional Authority namely the second respondent, by order dated 07.1.2003, allowed the revision petition and set aside the order passed by the third respondent dated 29.4.2002. The petitioner challenged the order passed by the second respondent by filing a further revision petition before the first respondent and it was dismissed by order dated 04.11.2013. The orders dated 07.1.2003 and dated 04.11.2013 passed by respondents 2 and 1 respectively are impugned in this writ petition.

4. The short question arises for consideration is as to whether merely because the petitioner purchased the property in question by an unregistered sale deed, her right to claim patta can be rejected. Secondly, what is to be seen is as to whether the order passed by the second respondent is a reasoned order, as to whether the entire factual position was taken into account before the revision filed by the President of the Village Panchayat was allowed and as to whether the first respondent was right in confirming the order passed by the second respondent.

5. The order passed by the third respondent dated 29.4.2002 granting patta in favour of the petitioner is a speaking order wherein there is a specific reference to the name of one Mr.Periyasamy Servai, whose name is found in the SLR (Land Survey Register) and by stating that the petitioner purchased the property from the said Mr.Periyasamy Servai by an unregistered sale deed dated 04.2.1980. All the Authorities

consistently submitted a report confirming the possession and enjoyment of the petitioner. However, when the matter was taken up by the second respondent on revision by the President of the Village Panchayat, which, according to the petitioner, was due to political animosity, the second respondent did not assign any reason, but allowed the revision by order dated 07.1.2003 and set aside the order passed by the third respondent dated 29.4.2002.

6. On a perusal of the order dated 07.1.2003 passed by the second respondent, one gets an impression that it is a speaking order because it is a five page order. However, on a closer scrutiny, it is seen that the decision is in the last paragraph of the order, which contains only seven lines. There is absolutely no discussion about any of the grounds raised by the petitioner nor the five documents, which have been produced by the petitioner. On further revision to the first respondent, this Court finds that the entire records were not perused in a proper manner. If, according to the first respondent, there is a record to show that the name of the said Mr.Periyasamy Servai was registered as enjoyer of the property, it goes without saying that the transaction between the said Mr.Periyasamy Servai and the petitioner, though stated to be an unregistered document, could not be ignored. The Subordinate Authority of the Revenue Department, on inspection, found the petitioner to be in possession of the property.

7. There are other reasons assigned by the petitioner to state as to on what background, steps were taken to cancel the patta. Furthermore, the petitioner relies upon a Will dated 17.8.1956 to evidence that the neighbouring property, which was bequeathed by the owner, shows the subject property as one of its boundaries. Therefore, it is submitted by the learned counsel for the petitioner that the land has been wrongly entered into in the records as a Government property in the settlement proceedings and that too, in the absence of the petitioner, when she was away from the village. Thus, this Court is of the view that a thorough enquiry has to be conducted at the level of the second respondent because the second respondent can re-appreciate the factual position, ascertain all necessary information and then take a decision in the matter.

8. For the above reasons, the writ petition is allowed, the impugned orders are set aside and the matter is remanded to the second respondent to conduct a fresh enquiry, issue notice to the petitioner, direct the third respondent to submit the entire files and all documents pertaining to the property in question

and after affording an opportunity to the petitioner or her authorized representative, fresh orders shall be passed in accordance with law. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

RS

To

- 1.The Principal Secretary and Commissioner of Land Administration,
Chennai-5.
 - 2.The District Revenue Officer, Sivaganga District, Sivaganga.
 - 3.The Revenue Divisional Officer, Devakottai, Sivaganga District.
 - 4.The Tahsildar, Tirupathur Taluk, Sivaganga District.
- +1cc to Mr.S.Mohan, Advocate SR.No.18563
+1cc to Government Pleader SR.No.19246

WP.No.32738 of 2013

VD(CO)
GMY(10/06/2020)

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