

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.12943 of 2020
and WMP.No.16010 of 2020

S.Dhamodaran

... Petitioner

..Vs..

1.The District Collector,
Kallakurichi District.

2.The Zonal Deputy Tahsildar,
Ulundurpet Taluk,
Kallakurichi District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus direction to call for the records on the file of 2nd respondent, in proceeding no. nil, dated 29.01.2020 and quash the same as illegal, incompetent and without jurisdiction and further direct the 2nd respondent to issue patta in respect to the lands purchased by the petitioner on 18.12.2018 in S.Nos.72/4K, 72/4L, 72/4N and 72/4Q, measuring an extent of 2 acres 51 cents, under document No.3822 of 2018, on the file of Sub Registrar Elavanasoor Kottai, Ulundurpet Taluk, Kallakurichi.

For Petitioner : Mr.V.Raghavachari

For Respondents: Mr.Annai Ezhil
Government Advocate

ORDER

This writ petition has been filed challenging the impugned communication received from the 2nd respondent, dated 29.01.2020, wherein the petitioner was informed that the application submitted by him seeking for patta has been rejected.

2. The case of the petitioner is that he purchased the subject property by virtue of registered sale deed dated 18.12.2018. The vendor of the petitioner acquired title over the subject property by virtue of a compromise entered into

before the Lok Adalat on 06.02.2017 in O.S.No.119 of 2016, on the file of the Principal District Munsif Court, Ulundurpet.

3. The petitioner made an application to the 2nd respondent seeking for the transfer of patta in his name. The petitioner received a communication from the 2nd respondent dated 29.01.2020, informing the petitioner that his application has been rejected.

4. When the writ petition came up for admission, this Court instructed the learned Government Advocate to furnish the order passed by the 2nd respondent since, it was not given to the petitioner and the petitioner was merely informed about the fact that his application was rejected. Pursuant to the directions issued by this Court, the learned Government Advocate has furnished the copy of the order passed by the 2nd respondent. A counter affidavit has also been filed by the 2nd respondent.

5. Mr.V.Raghavachari, learned counsel appearing on behalf of the petitioner submitted that the 2nd respondent has rejected the application submitted by the petitioner on the ground that an objection was raised by one Elumalai, who is claiming ownership over the property. The learned counsel submitted that the petitioner was not even informed about any such objections raised and this fact has been put forth for the first time before this Court. The learned counsel submitted that the order passed by the 2nd respondent is opposed to principles of natural justice and suffers from non-application of mind.

6. Per contra, Mr.Annai Ezhil, learned Government Advocate submitted that there is a dispute with regard to the ownership over the property and till the same is resolved before the competent civil Court, the 2nd respondent cannot transfer the patta in favour of the petitioner.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. A careful reading of the order passed by the 2nd respondent shows that there is some objection raised by one Elumalai with regard to the transfer of patta in the name of the petitioner. The vendor of the petitioner derives her right through an award passed by the Lok Adalat in O.S No.119 of 2016 dated 06.02.2017. There is nothing on record to show that this award has been put to challenge before any Court, till date. The petitioner is only a subsequent purchaser of the property in the year 2018.

9. In the considered view of this Court, the 2nd respondent ought to have acted on the award passed by the Lok Adalat and he

cannot go into the issue with regard to the genuineness of the award and it is a matter, which is beyond his jurisdiction. Ultimately, the 2nd respondent has to be satisfied based on records for the purpose of taking a decision to transfer the patta. The 2nd respondent cannot enter into title disputes.

10. In view of the above, this Court has no hesitation to interfere with the impugned order passed by the 2nd respondent dated 30.03.2020 and the same is quashed. The matter is remanded back to the file of the 2nd respondent and the 2nd respondent is directed to pass appropriate orders within a period of four weeks from the date of receipt of copy of this order.

11. In the result, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lpp

To

1.The District Collector,
Kallakurichi District.

2.The Zonal Deputy Tahsildar,
Ulundurpet Taluk,
Kallakurichi District.

Copy to

The Sub Registrar
Elavanasorr Kottai,
Ulundurpet Taluk,
Kallakurichi.

+1 cc to M/s.V.Raghavachari, Advocate Sr.No. 34458

+1 cc to M/s.R.Senniyappan, Advocate Sr.No. 34596

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NR(CO)
RMP(27/11/2020)