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WP(MD)No.III23 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.11123 of 2020

and

W.M.P (MD) .No.9740 of 2020

Vanjiappan

... Petitioner

Vs.

1.The Tahsildar,
Oddanchatram Taluk,
Dindigul District.

2.The Zonal Deputy Tahsildar,
Oddanchatram Taluk,
Dindigul District.

3.Valliammal

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made by the 1st respondent by his proceedings in Na.Ka.No.94/2018/E1, dated 03.07.2020 as well as the consequential patta No.1680 issued by the 1st respondent and quash the same and further directing the 1st respondent to restore patta No.309 in the name of the petitioner, his wife and son in respect of property in S.No.402/1A in Veriyappur Village, Oddanchatram Taluk measuring an extent of 0.64.00 hectares.

For Petitioner

:

Mr.M.P.Senthil

For R1 and R2

:

Mr.C.Ramesh

Special Government Pleader

ORDER

This Writ Petition is filed to quash the impugned order passed by the first respondent by his proceedings in Na.Ka.No.94/2018/E1, dated 03.07.2020 as well as the consequential patta No.1680 issued by the first respondent and further to direct the first respondent to restore patta No.309 in the name of the petitioner, his wife and his son, in respect of the property in S.No.402/1A in Veriyappur Village, Oddanchatram Taluk measuring to an extent of 0.64.00 hectares.

2.Heard Mr.M.P.Senthil, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader appearing for the first and second respondents.

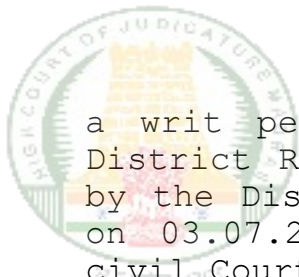


3. According to the petitioner, on 05.02.2014 and 24.02.2014, the petitioner, his son and his wife have purchased the property in Survey No.402/1A measuring to an extent of 1 acre 36 ½ cents and changed the patta in their names. Before purchasing the said property, the third respondent filed a suit against one Muthusamy, who is the original owner of the said property, in O.S.No.181 of 1994 before the District Munsif Court, Palani, for recovery of money and the said suit was decreed as ex-parte. Thereafter, auction proceedings were initiated and the third respondent participated in the Court auction and purchased the said property through a sale certificate. Since the third respondent did not take any steps to register the said sale certificate, it was not reflected in the encumbrance certificate.

4. Again, the third respondent filed a suit in O.S.No.177 of 2011, against the said Muthusamy for recovery of possession and the same was also decreed as ex-parte. In such circumstances, the third respondent made an application before the first respondent for getting patta in her name on the ground that she purchased the property in S.No.402 through Court auction. But the first respondent has rejected the same, since there is a variation in the extent of property. Thereafter, the third respondent made a representation to the Chief Minister Cell and the same was forwarded to the Sub-Collector, Palani. Pursuant to which, on 24.03.2020, the Sub Collector, Palani, passed an order directing the first respondent to issue separate patta in the name of the third respondent. Against which, the petitioner preferred a revision before the District Revenue Officer, Dindigul. On 27.07.2020, the District Revenue Officer, by his impugned proceedings, directed the petitioner to establish his title before the civil Court. Therefore, the petitioner filed a suit in O.S.No.176 of 2020 before the Sub-Court, Palani against the third respondent, the said Muthusamy, his daughters and the predecessors in title.

5. The petitioner is the bona fide purchaser for a valuable sale consideration and therefore, the District Revenue Officer ought to have directed the third respondent to keep in abeyance the entire proceedings by maintaining status quo. But the same was not done by the District Revenue Officer. Therefore, the petitioner has filed a writ petition in W.P(MD).No.9262 of 2020 before this Court. The said writ petition was disposed of with a direction to the petitioner to work out his remedy before the Sub-Court, Palani. In the mean time, the first respondent has passed an order to mutate the revenue entries in the name of the third respondent. Pursuant to which, patta has been changed in the name of the third respondent in Patta No.1680 on 26.08.2020. Challenging the order of the first respondent, the present Writ Petition has been filed.

6. The learned Special Government Pleader appearing for the first and second respondents submitted that the petitioner has filed



a writ petition before this Court challenging the order of the District Revenue Officer dated 27.07.2020. Before the order passed by the District Revenue Officer, the Tahsildar has passed an order on 03.07.2020 and therefore, the petitioner has to approach the civil Court to decide the title of the disputed property.

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7.By considering the aforesaid facts, the writ petitioner has purchased the property in S.No.402/1A measuring to an extent of 1 acre 36 ½ cents through a registered sale deed and he obtained patta for the same. The third respondent had approached the first respondent seeking patta in her name by removing the petitioner's name and that by the proceeding in Na.Ka.No.7451/2018/A1, dated 24.03.2020, the second respondent issued a separate patta in the name of the third respondent in respect of the aforesaid survey number removing the petitioner's name. Assailing the said order, the writ petitioner has preferred a revision before the District Revenue Officer, wherein directed the petitioner to approach the Civil Court to establish his title. Challenging the said order, the petitioner has approached this Court. The petitioner filed a suit in O.S.No.176 of 2020 before the Sub-Court, Palani and the same is pending and also filed an interlocutory application in I.A.No.30 of 2020 for an interim injunction. The said writ petition was disposed of, on 13.08.2020.

8.Now the grievance of the petitioner is that after disposal of the writ petition, the first respondent has changed the patta in favour of the third respondent.

9.On a perusal of the said order, the first respondent has passed an order 03.07.2020, prior to the order passed by this Court in W.P(MD).No.9262 of 2020, dated 13.08.2020. Therefore, this Court is not inclined to entertain the present writ petition. But, however, the said proceedings passed by the first respondent or any observation made by the District Revenue Officer shall not be influenced by the civil Court while deciding the I.A or the main suit in O.S.No.176 of 2020, now pending before the Sub Court, Palani, and the same be decided on its own merits.

10.With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

- 1.The Sub Judge ,Palani.
- 2.The Tahsildar,
Oddanchatram Taluk,
Dindigul District.
- 3.The Zonal Deputy Tahsildar,
Oddanchatram Taluk,
Dindigul District.

+1 CC to M/s.GP (SR-16387[F] dated 09/09/2020)

W.P. (MD) No.11123 of 2020
08.09.2020

AP(17/09/2020) 4P 5C