IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO. 27794 OF 2013
AND
M.P.NO.1 OF 2013

R.Palanivel

... Petitioner

-Vs-

1. The District Revenue Officer,
Cuddalore,
Cuddalore District.

2. The Revenue Divisional Officer,
Vridhachalam,
Cuddalore District.

3. The Tahsildar,
Thittakudi and Taluk,
Cuddalore District.

4. R.Arumugam

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling upon the production of the records relating to the order dated 22.08.2013 made in Na.Ka.V3/13938/2013 passed by the first respondent herein and quash the same.

For Petitioner : Mr.Rajarajan for Mr.T.Gandhi
For Respondents
For R1 to R3 : Mr.Richardson Wilson
Government Advocate.
For R4 : Mr. S.Saravana Kumar

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorari, calling upon the production of the records relating to the order dated 22.08.2013 made in Na.Ka.V3/13938/2013 passed by the first respondent herein and quash the same.

2. Heard Mr.Rajarajan, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 to 3 and Mr.S.Saravana Kumar, learned counsel appearing for the fourth respondent.

3. The case of the petitioner is that the lands comprised in Survey No.5/2B2A, ad-measuring 29 ½ cents, to an extent of 4 cents comprised in Survey No. 5/2C3 and to an extent of 41 ½ cents in Survey No. 5/2D1A, in all totally measuring an extent of 75 cents situated at Passar Village, Thittakudi Taluk, Cuddalore District are owned by him. The said property was purchased by the petitioner by two registered sale deeds dated 06.03.2013 vide Document Nos. 622 of 2013 and 623 of 2013 on the file of the Sub-Registrar Office, Veppur. From date of the purchase, the petitioner is in possession and enjoyment of the same. Originally, the petitioner's vendor and his brothers purchased the said property along with adjacent lands from the fourth respondent on 16.10.1983 and from one Pushpa Nathan, son of Narayanan, on 28.01.1987 by the registered sale deed Document No. 98 of 1987. In the year 2005, the petitioner's vendor's brother's land ad-measuring 0.02.0 Ares was acquired by National Highway Authority for extension of Highway Road. The petitioner's vendor purchased his brother's share by the sale deed dated 15.02.2007 registered vide Document No. 198 of 2007. After purchase, the petitioner's vendor was issued patta in Patta No.246 for the subject lands and the adjacent lands purchased by him. The adangal and other revenue records were mutated in his name. Therefore, the petitioner's vendor and his previous vendors are the erstwhile owners of the subject property and they were in continuous, uninterrupted possession and enjoyment of the same from the year 1983.

4. After purchase of the subject land by the petitioner, he was also issued patta after Sub-Division of the said property in Patta No.1013. Thereafter, the petitioner had put up

construction and also obtained electricity service connection from the Tamil Nadu Electricity Board. The house was assessed for property tax by the village panchayat. At that juncture, the fourth respondent filed an appeal before the second respondent for cancellation of patta issued in favour of the petitioner. The second respondent conducted an enquiry and rejected the appeal filed by the fourth respondent. Aggrieved by the same, the fourth respondent filed an appeal before the first respondent and the patta issued in favour of the petitioner and the Sub-Division made in the property was cancelled and the first respondent directed to mutate the revenue records in the name of the fourth respondent herein.

5. A perusal of the order passed by the second respondent shows that the fourth respondent was directed to file a suit to declare the title in his favour and thereafter approach for issuance of patta, since the subject property is in possession and enjoyment of the petitioner for the past 30 years. Further stated that the fourth respondent was never served with any notice while acquisition of land by the National Highways and he did not receive any compensation for the acquisition of part of the land. However, the first respondent set aside the order passed by the second respondent for the reason that before UDR, wrong entry was made in respect of the subject property and based on that the petitioner's vendor's vendor purchased and subsequently made so many encumbrances by way of sale deeds.

6. Therefore, the first respondent ordered to cancel the sub-division and cancelled the patta issued in favour of the petitioner and directed to mutate the revenue records in favour of the fourth respondent herein. The second respondent while rejecting the request of the fourth respondent, directed the fourth respondent to approach the Civil Court for title with regard to the subject lands. However, the fourth respondent filed an appeal before the first respondent and first respondent passed the impugned order in this writ petition on 22.08.2013, thereby allowed the appeal filed by the fourth respondent. However, the fourth respondent filed a suit in O.S.No. 54 of 2014 on the file of the Additional District Munsif Court, Thittakudi for injunction, challenging the patta issued in favour of the petitioner and mandatory injunction to issue patta in his favour. Since, the order passed by the first respondent

even before filing the suit, the said suit was left out by the fourth respondent and it was dismissed for default by the Judgment and Decree dated 04.08.2018. Admittedly, the petitioner is in possession and enjoyment of the property from his date of purchase. Pending the writ petition, the petitioner also filed a suit in O.S.No. 119 of 2017 on the file of The Sub-Court, Thittakudi for declaration and injunction of the subject property.

7. In view of the above facts and circumstances, the respondents are directed to maintain the status quo as on today in respect of the subject property till the disposal of the suit in O.S.No. 119 of 2017 on the file of the Sub-Court, Thittakudi. If the petitioner succeeds in the suit, he can very well apply for patta for the subject land pursuant to the Decree before the third respondent and the third respondent is directed to consider the same after due enquiry with an opportunity of hearing to the parties concerned and pass orders. It is made clear that the Civil Court i.e., The Sub-Court, Thittakudi, is directed to dispose of the suit without any influence of the observation made by the revenue officials.

8. With the above directions, the writ petition is disposed of. Consequently connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

Lpp/mn

To

1. The District Revenue Officer,
Cuddalore,
Cuddalore District.

2. The Revenue Divisional Officer,
Vridhachalam,
Cuddalore District.

3. The Tahsildar,
Thittakudi and Taluk,
Cuddalore District.

+1cc to Mr.T.Gandhi, Advocate, S.R.No.54165

+1cc to the Government Pleader, S.R.No.55069

W.P.No. 27794 of 2013
and M.P.No.1 of 2013

AD(CO)
RLP(15/11/2021)