IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7070 of 2020
and
W.M.P.No.8432 of 2020

K.B.Hadi Basha ... Petitioner

Vs

1. The District Collector of Krishnagiri,
   Collectorate,
   Krishnagiri.

2. The District Revenue Officer,
   Krishnagiri.

3. The Revenue Divisional Officer,
   Hosur.

4. The Tahsildar,
   Denkanikottai,
   Denkanikottai Taluk,
   Krishnagiri District. ... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st Respondent namely the District Collector, Krishnagiri in reference Pa.Mu.18333/2018/J2 dated 06.01.2020 and quash the same and consequently, direct the 1st Respondent to instruct the concern Authority to generate computer patta in favour of the petitioner for S.Nos.105/3 and 106/1, Kundumaranapalli Village, Denkanikottai Taluk, Krishnagiri District within a time to be stipulated by this Court.

For Petitioner : Mr.L.Pachaiappan for Mr.M. Vijayakumar

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent namely the District Collector, Krishnagiri in reference Pa.Mu.18333/2018/J2 dated 06.01.2020 and quash the same and consequently, to direct the 1st respondent to instruct the concern authority to generate computer patta in favour of the petitioner in respect of properties comprised in S.Nos.105/3 and 106/1 situated at Kundumaranapalli Village, Denkanikottai Taluk, Krishnagiri District, within a time to be stipulated by this Court.

2. The case of the petitioner is that the petitioner's vendor viz., one R.Selvaraj purchased the land comprised in S.No.105/3 ad-measuring to an extent of 0.92.0 hectares situated at Kundumaranapalli Village from one Sankarappa. He was also issued patta under Patta No.172. He has also purchased the property comprised in S.No.106/1 ad-measuring to an extent of 0.42.5 hectares from one Narayanappa by the registered sale deed dated 29.01.1996 under Patta No.354. Thereafter, the petitioner purchased both the properties from the Power of Attorney Agent of the said R.Selvaraj by the registered sale deed dated 08.04.2010 and he is in possession and enjoyment of the same and doing cultivation by raising field bean and other crops in S.No.106/1. However, in the revenue records the said lands were wrongly entered as AD condition from the Fasli 1400 and they were not classified as AD condition before Fasli 1400 and it was wrongly entered and described as AD condition in adangal after Fasli 1400. However, the proceedings of the District Collector, Salem District dated 19.12.1933 revealed that on the orders from the board of revenue, the order of the Sub Collector, Hosur in No.163 dated 03.02.1921 published in the Salem District Gazette on 16.03.1926 reserving the lands for depressed class was revoked and the land assigned should be done to the ryots cultivating the lands at present.

3. The petitioner also produced a copy of the Salem District Gazette dated 14.08.1934 thereby declared that the subject lands along with other lands were de-reserved for depressed class. In so far as the lands comprised in S.No.105/3 in 'A' memo in column – 16 has been specifically stated that the said land is not allotted to the depressed class. Further, revealed in the 'A' memo that in respect of S.No.105/1 was sub-divided as S.Nos.105/1A, 105/1B and 105/1C in which S.No.105/1B was assigned to Sankaran under an assignment deed (D-Form) dated 15.09.1955. Thus, it is clear that S.No.105/3 is not AD condition land. In the adangal for Fasli Years 1375, 1380 and 1383 there was no entry as AD condition land. In fact, in the proceedings dated 12.07.2018, the 3rd respondent directed to

issue Patta No.1037 in respect of the subject properties in favour of the petitioner herein.

4. That apart, one Shakthivel filed writ petition as public interest litigation in W.P.No.28237 of 2018, for a direction, directing the Secretary to the Government, SC and ST Social Welfare Department and the 1st and 4th respondents herein, to restore the lands situated at Kundumaranapalli Village, Kelamangalam, Tenkanikottai Taluk, Krishnagiri District comprised in S.Nos.105, 106 and 113 including subject lands for allotment of benefit of Schedule Caste Community and Depressed Community by taking necessary action against the illegal occupation of the other community. In the said writ petition, the petitioner was also added as 5th respondent.

5. In the said writ petition, the 1st to 4th respondents therein filed counter affidavit through the 4th respondent herein. The said counter affidavit revealed that before UDR Scheme, S.Nos.105, 106 and 113 of Kundumaranapalli Village in Denkanikottai Taluk were not AD condition land. After UDR Scheme, the said properties were by mistake and by oversight wrongly mentioned as AD condition land in the Revenue Records by the then revenue officials. Before Fasli Year 1400, the said lands are not classified as AD condition land any only after 1400 Fasli Year, it was wrongly mentioned as AD condition land.

6. By the proceedings of the 2nd respondent herein in Na.Ka.No.11673/2011/J-2, dated 21.03.2012 the mistake of entry of AD condition land was rectified and the classification of AD condition land was changed by the 2nd respondent herein. In the column No.12 of A Register of Kundumaranapalli Village, by mistake the entry of AD condition was entered by the then revenue officials. Since 1961 to 2008 so many people belong to different community and caste sold and purchased properties comprised in S.Nos.105, 106 and 113 and they were granted patta by the revenue officials.

7. In the present A Register, the subject properties are not mentioned as AD condition land. By the proceedings in Na.Ka.No.39216/2010/J-2, dated 17.03.2012 of the District Revenue Officer, Krishnagiri/the 2nd respondent herein and the proceedings in Na.Ka.No.3458/2003/A-4, dated 10.01.2005 of the Sub Collector, Hosur, the present pattadars (patta holders) names were entered in the revenue records while computerized the records from manual register to computer data in the revenue department. Accordingly, the subject lands were classified as 'assessed waste land' in the revenue records and the wrong entry of AD condition was deleted by the Sub-Collector, Hosur in the proceedings in Na.Ka.No.3458/2003/A-4, dated 10.01.2005.

8. Considering the said counter affidavit filed by them, the Hon'ble Division Bench of this Court by an order dated 25.02.2019 dismissed the writ petition in W.P.No.28237 of 2018 and concluded that the lands in S.Nos.105, 106 and 113 of Kunthumaranapalli Village, Denkanikottai Taluk, Krishnagiri District are not AD condition lands and the mistake that crept in after UDR Scheme, before Fasli Year 1400. It was also rectified by the 2nd respondent herein on 21.03.2012 and as such, the subject lands cannot be construed as AD condition lands.

9. Therefore, the petitioner submitted an application to rectify the mistake and issuance of patta. The 1st respondent conducted a detailed enquiry and on receipt of the reports from the 2nd to 4th respondents, rejected the request made by the petitioner for the reason that the subject lands as per 'A' Register of the year 1906 classified as 'Arasu Punjai' and 'Arasu Poramboke Pattai' and in the remarks portion mentioned as AD condition lands. Further stated that as per the years 1925 and 1926 of the Salem District Gazette No.7 dated 15.07.1925 and the Salem District Gazette No.8 dated 16.08.1926, the land comprised in S.No.106/1 ad-measuring 9 acres reserved for Scheduled Caste Community people.

10. As stated supra and on perusal of the Salem District Gazette dated 14.08.1934 revealed that the lands comprised in various survey numbers are situated at No.5, Aanoor Village, No.25, Modichipalli Village, No.51, Hochipuram Village and the property comprised in S.Nos.105/1 and 106/1 along with other survey numbers situated at Kundumaranapalli Village were de-reserved (deleted) from the list of AD condition lands.

11. Moreover, the petitioner's vendor was duly issued patta and after purchasing the subject lands, the petitioner was also issued patta. However, during UDR Scheme wrongly entered as AD condition land and as such, the petitioner was constrained to submit application for rectification of revenue records and issuance of patta. The learned counsel for the petitioner also produced the comprised pattas issued in favour of various persons in the land comprised in S.Nos.105 and 106 of Kundumaranapalli Village. Therefore, the petitioner is entitled for issuance of patta in respect of the subject lands.

12. In view of the above, the impugned order in Pa.Mu.18333/2018/J2 dated 06.01.2020 passed by the 1st respondent cannot be sustained and it is liable to be quashed. Accordingly, the same is quashed. The 1st respondent is directed to pass orders to mutate the revenue records in favour of the petitioner and issue patta to the petitioner in respect of the lands comprised in S.Nos.105/3 and 106/1 situated at Kundumaranapalli Village, Denkanikottai Taluk, Krishnagiri District, forthwith.

13. With the above direction, this writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector of Krishnagiri,
   Collectorate,
   Krishnagiri.

2. The District Revenue Officer,
   Krishnagiri.

3. The Revenue Divisional Officer,
   Hosur.

4. The Tahsildar,
   Denkanikottai,
   Denkanikottai Taluk,
   Krishnagiri District.

+1cc to Mr.M. Vijayakumar, Advocate, S.R.No.69364
+1cc to the Government Pleader, S.R.No.69895

W.P.No.7070 of 2020

PM(CO)
CT 19/01/2022