



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.6772 OF 2018 AND

WMP.NOS.8393 & 8394 OF 2018

M/s.Mahindra World City Developers Limited,
(formerly known as Mahindra Industrial Park Limited)
Represented by its Senior General Manager-Legal
R.Eswaran, having office at Mahindra Towers,
Ground Floor, 17/18, Patulous Road,
Chennai 600 002

... Petitioner

Vs

- 1.The District Revenue Officer,
District Collectorate,
Kanchipuram,
Kanchipuram District
- 2.The Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet,
Kanchipuram District
- 3.The Tahsildar,
Chengalpet Taluk,
Kanchipuram District
- 4.Savithiri

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the first respondent relating to the proceedings in Na.Ka.12829/2016- No.4, dated 12.01.2018, quash the same.

For Petitioner	:	Mr.R.Bharath Kumar
For Respondents	:	
For R1 to 3	:	Mr.Richardson Wilson Government Advocate
For R4	:	Mr.M.Divakar



ORDER

This Writ Petition is filed to issue a writ of certiorari calling for the records of the first respondent relating to the proceedings in Na.Ka.12829/2016- No.4, dated 12.01.2018 and to quash the same.

2. Heard, Mr.R.Bharath Kumar, the learned counsel for the petitioner, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1 to 3, and Mr.M.Divakar, the learned counsel for the fourth respondent.

3. The petitioner company has purchased the land to an extent of 1.41 acres comprised in survey No.7/2 and to an extent of 63 cents comprised in survey No.15/3 situated at Hanumanthai Village, Chengalpet Taluk, Kanchipuram District from one Mr.Venkatesan through his power agent by the registered two sale deeds dated 18.01.1998 vide document Nos.4203 and 4204 of 1998 on the file of the Sub Registrar, Joint-II, Chengalpet. The said properties were originally purchased by the predecessor of one Elumalai, who is the father of the petitioner's vendor. Thereafter, the said Elumalai Naicker had executed settlement deed dated 20.12.1982 registered vide document No.2866 of 1982 on the file of the Joint-II, Sub Registrar, Chengalpet in favour of his son, the said Venkatesan. As per the settlement deed, the life interest alone vest with the said Venkatesan and absolute interest in favour of his grand children, i.e. sons of the said Venkatesan. The fourth respondent is his wife. After purchase, the petitioner came to know that the absolute interest over the property vest with his sons. Therefore, the petitioner got executed the deed of rectification on 22.01.2008 registered vide document Nos.524 of 2008 and 527 of 2008 on the file of the Sub Registrar, Joint II, Chengalpet from his sons. Therefore, the said sale was perfected with interest from the execution of the sale deed dated 18.01.1998.

4. Again, the petitioner came to know about the sisters of the said Elumalai Naicker, who had filed suit for partition against the son of the Elumalai Naicker i.e. Venkatesan and his sons in respect of the subject property in OS.No.89 of 1988 on the file of the Principal Sub Court, Chengalpet. It was decreed in their favour by the judgment and decree dated 19.06.2008. Accordingly, the said Venkatesan was allotted only 17 cents in survey No.15/3 situated at Hanumanthai Village, Chengalpet. Therefore, the petitioner was constrained to approach the lawful owners i.e. sisters of the Elumalai Naicker and they have also executed consent deed dated 14.05.2010 registered vide document No.3322 of 2010 through their power agent and thereby they have perfected the title to the subject property in favour of the petitioner.



5. It is also noted that there was no appeal against the judgment and decree passed in OS.No.89 of 1988. Therefore, the fourth respondent herein and the sons of the said Venkatesan have no claim, title or right over the subject property. While being so, the fourth respondent and her two sons filed suit in OS.No.245 of 2010 on the file of the Additional District Court, Chengalpet for partition and declaration to declare that the said deed dated 18.01.1998 and the rectification deed dated 22.01.2008 as null and void. In fact, the petitioner also got consent deed from the other sisters of the said Elumalai Naicker dated 14.05.2010 in favour of the petitioner. While pending the said suit, the sons of the said Venkatesan have settled the subject property in favour of their mother i.e. the fourth respondent herein by the settlement deed dated 10.10.2013 registered vide document No.12008 of 2013. On the strength of the settlement deed, the fourth respondent approached the third respondent to cancel the patta issued in favour of the petitioner suppressing the above facts. The second respondent conducted detailed enquiry and rejected the application for cancellation of patta by order dated 14.03.2016.

6. Aggrieved by the same, the fourth respondent filed appeal before the first respondent. On receipt of the same, the first respondent conducted enquiry and set aside the order passed by the second respondent and directed the third respondent to conduct de novo enquiry and to pass order afresh. The first respondent set aside the order passed by the second respondent for the reason that the petitioner failed to explain about the rectification deed registered vide document No.524 of 2008 and also failed to produce records in respect of the suit filed by the fourth respondent and another suit filed by the petitioner in OS.No.5 of 2010. That apart, the third respondent submitted that the records with regards to issuance of patta in favour of the petitioner is not available. Therefore, the first respondent cancelled the patta issued in favour of the petitioner and remanded back to the third respondent i.e. Tahsildar to conduct de novo enquiry and pass orders afresh.

7. As stated supra, after purchase of the subject property, the petitioner came to know about the settlement deed and as such sons of the said Venkatesan executed rectification deed in favour of the petitioner. Thereafter, in view of the decree passed in the partition suit, the sale deed was perfected by the consent deed executed by the sisters of the said Elumalai Naicker in favour of the petitioner. Therefore, the petitioner was rightly issued patta and the first respondent mechanically recorded the suit proceedings and cancelled the patta.

8. It is also curious to note that the first respondent



directed the third respondent to conduct de novo enquiry. It is impermissible under law. The earlier suit filed by the fourth respondent and her two sons in OS.No.245 of 2010 was dismissed as withdrawn. Now the fourth respondent has filed another suit in OS.No.104 of 2019 on the file of the District Munsif Court, Chengalpet for declaration and other prayers in respect of the subject property.

9. In view of the above, the impugned order dated 12.01.2018 passed by the first respondent is hereby set aside and the writ petition is allowed. However, if the fourth respondent succeeds in the said suit, she can very well approach the third respondent for issuance of patta. On such application, the third respondent is directed to issue notice to the petitioner and other parties concerned, and after giving opportunity of hearing, to pass orders on merits and in accordance with law. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Revenue Officer,
District Collectorate,
Kanchipuram,
Kanchipuram District
- 2.The Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet,
Kanchipuram District
- 3.The Tahsildar,
Chengalpet Taluk,
Kanchipuram District

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.41426
+1cc to the Government Pleader, S.R.No.41352

WP.No.6772 of 2018

NRL (CO)
PM/21/09/2021