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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.07.2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.9223 of 2021

and

W.M.P.No.9760 of 2021

A.Duraisamy

... Petitioner

-Versus-

1.The District Collector,  
Coimbatore.

2.The District Revenue Officer,  
Coimbatore.

3.The District Revenue Officer (Special),  
Airport Expansion,  
District Collector Office,  
Coimbatore.

4.The Revenue Division Officer,  
Coimbatore.

5.The Tahsildar,  
Coimbatore.

6.G.Vasanthi

7.M.Sagunaveni

8.A.Meenakshi

9.R.Palanisamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 2 to 5 to consider the representation of the petitioner dated 01.12.2020 seeking cancellation of patta for the lands situate in S.F.No.652/1E, S.F.No.652/2B, S.F.No.652/3, S.F.No.663/1A, S.F.No.663/1B, S.F.No.665/2A1 and S.F.No.665/2A3 at Kalapatti Village, Coimbatore District.

For Petitioner : Mr.M.Ashwin Kumar

For Respondent(s) : Mr.K.M.D.Muhilan



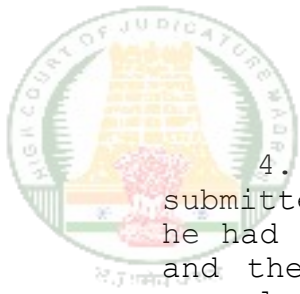
ORDER

[This matter has been heard through video conference]

WEB COPY This writ petition has been filed seeking a direction to the respondents 2 to 5 to consider the representation of the petitioner dated 01.12.2020 seeking cancellation of patta for the lands situate in S.F.No.652/1E, S.F.No.652/2B, S.F.No.652/3, S.F.No.663/1A, S.F.No.663/1B, S.F.No.665/2A1 and S.F.No.665/2A3 at Kalapatti Village, Coimbatore District.

2. The indisputable facts are that the petitioner's father was the absolute owner of the above said properties having inherited the same through a partition. The petitioner is said to have entered into an agreement of sale with his father and as the father had refused to execute a sale deed pursuant to the agreement of sale, the petitioner filed a suit in O.S.No.491 of 1998 on the file of the Sub Court, Coimbatore for specific performance of contract. Pending suit, the father of the petitioner sold the property in question in favour of the respondents 6 to 9. While so, the said suit was dismissed by the Sub Judge, Coimbatore, by judgement and decree dated 16.02.2004. Aggrieved by the dismissal of the suit, the petitioner filed an appeal in A.S.No.162 of 2004 before the III Additional District Judge, Coimbatore and the same was also dismissed on 31.07.2013. Challenging the concurrent findings of the courts below, the petitioner preferred a further appeal in S.A.No.747 of 2014 which is pending on the file of this court. According to the petitioner, in the mean time, patta was transferred in the name of the subsequent purchasers. While so, a land acquisition proceeding was initiated by the State and the land in question was acquired and compensation has also been awarded in favour of the subsequent purchasers viz., respondents 6 to 9. On coming to know of the same, the petitioner made an application to the 4th respondent on 01.12.2020 seeking to cancel the patta transferred in the name of the respondents 6 to 9. That application is still pending with the 4th respondent for disposal and no order has been passed so far. Hence, the writ petition.

3. The learned counsel for the petitioner submitted that respondents 6 to 9 had purchased the land in question pendente lite and the second appeal is still pending. But, without considering the pendency of the second appeal, patta has been transferred and based on such mutation, the authorities have been taking steps to disburse the compensation. In the above circumstances, the petitioner made an application for cancellation of patta to the 4th respondent which has not been considered till date.



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4. The learned counsel appearing for the petitioner further submitted that the petitioner is an agreement holder and though he had lost the suit for specific performance in the trial court and the same was confirmed by the appellate court, the second appeal filed by him has been pending and initially, an interim order of injunction was granted by this court against the authorities concerned from disbursing the compensation amount to the subsequent purchaser. But, without considering the pendency of the civil dispute, the revenue authorities mutated the patta and based on that mutation of revenue records, now, the land acquisition authorities are taking steps for disbursing the compensation amount in favour of the subsequent purchasers.

5. The learned counsel appearing for the respondents 1 to 3 submitted that the petitioner was an agreement holder and the suit filed by the petitioner for specific performance was dismissed and the appeal suit was also dismissed and the second appeal filed by the petitioner is pending for disposal before this court. Unless and until he succeeds in the second appeal filed against the concurrent finding of the courts below refusing to grant a decree for specific performance, the petitioner being an agreement holder has no right to get transferred the patta in his name and therefore, the application of the petitioner for transfer of patta cannot be directed to be considered by the Revenue Divisional Officer concerned.

6. Even though notice was served and the name of the respondents have been printed, the respondents 6 to 9 neither present in person or represented by a counsel.

7. I have considered the rival submission carefully and also perused the records carefully.

8. Admittedly, the petitioner is an agreement holder and the suit filed by him for specific performance of contract was dismissed by the trial court and the appeal suit filed by him was also dismissed. Now, the second appeal filed as against the concurrent finding of dismissal of the suit is pending before this court. Unless and until the second appeal is allowed and a decree is passed in favour of the petitioner for specific performance of contract, the petitioner, being agreement holder, cannot claim right or title over the property in question. The respondents 6 to 9 have become the absolute owner of the property in question having purchased through a registered sale deed. Even though the sale is hit by pendente lite, unless the petitioner gets decree in his favour for specific performance of contract and sale deed is executed in his favour, he cannot claim any title over the property and seek for cancellation of patta issued in the name of the subsequent purchaser, pendente lite. In view of the above, no direction could be issued to the



Revenue Divisional Officer concerned to consider the application of the petitioner seeking cancellation of patta. Thus the writ petition is devoid of merits and the same deserves only to be dismissed.

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In the result, the writ petition is dismissed, however, in the event of succeeding in the second appeal and a deed executed in favour of the petitioner, it is always open to the petitioner to approach the concerned authority seeking appropriate relief. No costs. Consequently, connected WMP is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The District Collector, Coimbatore.
- 2.The District Revenue Officer, Coimbatore.
- 3.The District Revenue Officer (Special), Airport Expansion,  
District Collector Office, Coimbatore.
- 4.The Revenue Division Officer, Coimbatore.
- 5.The Tahsildar, Coimbatore.

+1cc to Mr.Saravabhauman Associates, Advocate, S.R.No.31577

Writ Petition No.9223 of 2021

RSV(CO)  
SB(02/08/2021)