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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 29.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.14312 of 2018

A.Kaliyaperumal

...Petitioner

-Vs-

1. The District Collector,
Villupuram.
2. The Thasildar,
Villupuram.
3. Kokilambal
4. Bagyalakshmi
5. Nandakumar
6. Ramkumar

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to restore the patta in favour of the petitioner in respect of the property in Survey No.260/1-42.50 acres at Sendhanur Village, Villupuram Taluk by considering the representation given by the petitioner dated 5.5.2018. (Prayer amended vide order dated 26.03.2021 made in WMP No.20525 of 2018 in W.P.No.14312 of 2018 by SSSRJ).

For Petitioner : Mr.N.Suresh
For Respondents : M/s. Akila Rajendran
Government Counsel For RR1 & 2

O R D E R

The prayer sought for herein is for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to restore the patta in favour of the petitioner in respect of the property in Survey No.260/1- 42.50 acres at Sendhanur Village, Villupuram



Taluk by considering the representation given by the petitioner dated 5.5.2018.

2. The landed property in S.No.260/1 at Sendhanur Village, Villupuram Taluk and District is the subject matter herein. According to the petitioner, the property originally belonged to one Poorani Ammal, from whom he purchased the property by a registered Sale Deed in the year 1983. Pursuant to the said sale, the petitioner claimed to have been in possession and enjoyment of the property and accordingly he applied for patta and that was also considered by the Revenue Authorities, where they have given patta in Patta No.75 dated 15.02.2015 in favour of the petitioner.

3. Subsequently, according to the petitioner, he came to know that, in the year 2018, patta had been issued in favour of the private respondents 3 to 6 in respect of the same property on 14.04.2018. Therefore, in order to cancel the other patta issued in favour of the third party, which according to the petitioner has been issued without any notice to the petitioner, he has given a representation dated 05.05.2018 to the respondents to conduct an enquiry and cancel the patta issued in favour of the private respondents in Patta No.679 dated 14.04.2018 and since the said representation has not been considered, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

4. Heard Mr.N.Suresh, learned counsel appearing for the petitioner, who would submit that, the landed property in question has been purchased by the petitioner through a valid sale deed dated 21.09.1983. It has been registered as a document in the concerned Registrar Office and by virtue of the sale deed, the petitioner had become the owner of the property and had been in possession and enjoyment of the property all along.

5. Though subsequently patta also has been issued in favour of the petitioner on 15.02.2015, of late the petitioner came to know in the year 2018 only that, patta issued in favour of the petitioner has been cancelled on 14.04.2018 and it has been re-issued in favour of the private respondents ie., respondents 3 to 6 herein. Therefore, in order to cancel the same, representation though was given by the petitioner on 05.05.2018, the said representation since was not considered by the respondents, the petitioner had no other option except to file the present writ petition with the aforesaid prayer and hence the learned counsel for the petitioner seeks such issuance of a writ of Mandamus as prayed for.



6. However Ms.Akila Rajendran, learned Government Counsel appearing for the official respondents has relied upon the following averments made in the counter affidavit.

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5. It is submitted that the Respondent deny the allegations made by the petitioner in his affidavit. The fact the case is one Mrs.Unnamalai, W/o.Mr.Kothandapani sold the property to an extent of Acre, 42 Cents comprised in S.No.260 to and in favour of Mrs.Poorani Ammal @ Unnamalai, W/o.Mr.Pandurangan. The said Document was executed to the value of Rs.7,000/- and the same was registered as Document No.1473 of 1982 before the Joint-1, SRO, Villupuram. On the very same day another one Agreement was executed between the same parties and the said Agreement was also registered as Document No.1474 of 1982.

As per the said Agreement, the said Mrs.Unnamalai has returned Rs.100/- to Poorani Ammal and balance a sum of Rs.6,900/- will be paid within a period from 17.10.1987 to 16.10.1989, the said Unnamalai comply the said condition pursuant to that the Poorani Ammal has to give back the property to Unnamalai. Thereafter, the said Unnamalai was died on 12.11.1985. In the meanwhile Mr.Kaliyaperumal, petitioner herein has purchased the said property from Mrs.Poorani Ammal.

6. It is submitted that after the demise of said Mrs.Unnamalai, her son on Mr.Gnanavel filed a Suit in O.S.No.1059 of 1989 before the District Munsif Court, Villupuram, against the Mrs.Poorani Ammal and Kaliyaperumal, seeking for Specific Performance to execute the sale deed and the same was allowed on 21.02.1991. Subsequent to the order passed by the District Munsif Court, Poorani Ammal and Kaliyaperumal has not come forward to sell the property. Hence the District Judge, Villupuram has executed the sale deed in favour of Gnanavel, (i.e S/o. Unnamalai, Original Owner).

7. It is submitted that the said Gnanavel was died, after the demise of Gnanavel, his legal heirs namely Mrs.Kokilampal, W/o. Late Gnanavel, G.Backiyalakshmi, D/o. Late Gnanavel and G.Nandakumar, S/o. Late Gnanavel and G.Ram Kumar, S/o. Late Gnanavel Respondent 3 to 6 herein made an application before the Revenue Authorities to change their name in Patta, based on the sale deed executed



by the District Court Villupuram the 2nd Respondent issued Patta in favour of the Respondent 3 to 6.

8. It is submitted that sale deed was executed by the District Judge, District Munsif Court in the year of 1994 itself. The Respondents 3 to 6 herein has made representation to change their name in patta. As per the sale deed executed by the District Judge, Villupuram, the 2nd Respondent changed the name of Respondent 3 to 6 in Patta. If the petitioner aggrieved on the order passed by the District Judge in O.S.No.1059 of 1989, petitioner has to prefer an appeal."

7. By relying upon these averments, Ms.Akila Rajendran, learned Government Counsel would submit that, no doubt the petitioner's vendor Poorani Ammal purchased the property from Mrs.Unnamalai, W/o Kothandapani and on the same day there was an agreement for sale executed between the said parties ie., Unnamalai and Poorani Ammal. Pursuant to the said agreement of sale, some amount has been paid to the said Unnamalai by Poorani Ammal and before the remaining amount was paid, it seems that the said Unnamalai died. Therefore, the legal heirs, who are the present private respondents stepped into the shoes of the said Unnamalai and filed a suit in O.S.No.1059 of 1989 on the file of the learned District Munsif, Villupuram seeking specific performance against the said Poorani Ammal as well as the petitioner, who has been the subsequent purchaser of the property in question from the said Poorani Ammal.

8. The said suit was decreed. Subsequently, since the defendants therein did not come forward to execute the sale deed as per the decree, the Court had come forward to the rescue of the plaintiffs and they executed the sale deed in favour of the private respondents in the year 1994. Therefore, the private respondents 3 to 6 having got the title over the property in question by way of the sale deed executed by the Court, seems to have applied to the Revenue Authorities for issuance of patta and that was considered by the Revenue Tahsildar, who, after having gone through all the documents including the Civil Court decree as well as the sale deed executed by the Civil Court, has decided to cancel the patta in favour of the petitioner and re-issue the same in favour of the respondents 3 to 6 and therefore, the said issuance of patta is strictly in consonance with the Civil Court decree as well as the sale deed executed by the Civil Court in favour of the private respondents and the same need not be cancelled or disturbed. Accordingly, the plea raised by the petitioner cannot be considered in favour of the petitioner. Making these submissions, learned Government Counsel seeks dismissal of this Writ Petition.



10. No doubt, the petitioner might have purchased the property from the said Poorani Ammal who was the vendor of the petitioner and the said sale deed also had been registered in the concerned Registrar Office as Document No.1473 of 1982 on the file of the Joint-I Sub Registrar Office, Villupuram.

12. Subsequently, after coming to know these factors, the legal heirs of the said Unnamalai, who are the private respondents herein filed a suit in O.S.No.1059 of 1989 before the District Munsif Court, Villupuram seeking for a judgment and decree for specific performance. The said suit also decreed in favour of the plaintiffs who are private respondents herein.

14. Therefore, the private respondents have become the owners of the property in question as early as in 1994 and pursuant to the said action, since the private respondents have become the owners of the property they seems to have approached the revenue authorities ie., the Tahsildar for issuance of patta in their name.

<https://hcservices.ecourts.gov.in/hcservices/>



16. In this context it is a fact that, though the petitioner was a party in the Civil Court, according to the petitioner, no notice has been served and it was an exparte decree. He would also submit that, whatever be the reasons for changing patta in favour of the third party, notice should have been given by the Tahsildar to the petitioner also and for these two reasons the learned counsel for the petitioner submits that, the patta issued in favour of the private respondents shall not stand in the legal scrutiny. Therefore, the same has to be cancelled and in this regard, the request made by the petitioner dated 05.05.2018 has to be considered.

17. This Court is not impressed with the said submission made by the learned counsel for the petitioner. No doubt, before passing any order changing the patta by way of mutation in the revenue records by deleting or inducting any name in the patta, certainly notice should have been given to the person in whose name the patta originally stood. However, in the case in hand, though patta was issued on 15.02.2015 based on the sale deed dated 21.09.1983, subsequently it has been brought to the notice of the revenue authorities that there has been a Civil Court decree in favour of the private respondents for the same property, pursuant to which the Court itself has executed a sale deed in favour of them and with the strength of the Civil Court decree as well as the sale deed executed by the Civil Court, since the private respondents approached the revenue authorities and on satisfaction of the documents produced by them, the Tahsildar acted upon to effect mutation of the revenue records in favour of the private respondents.

18. In this regard the issuance of notice to the petitioner would be an empty formality as the petitioner can never improve his case, for the simple reason that, admittedly even till date the petitioner or his vendor have not chosen to file any appeal against the judgment and decree made long years back ie., in the year 1994.

19. Therefore, even on the date when the patta was mutated in favour of the private respondents ie., on 14.04.2018, 24 years have gone by after passing of the Civil Court decree as well as the execution of the sale deed in favour of the private respondents. Therefore, that position cannot be erased easily by the petitioner and therefore, even if notice had been given by the Tahsildar before the issuance of the patta in favour of the private respondents, the position would not have been changed and therefore the theory of empty formality can very well be invoked in this case and can be pressed into service.



20. In that view of the matter, the non issuance of notice to the petitioner before issuing patta dated 14.04.2018 in favour of the private respondents, cannot be fatal to the said proceedings dated 14.04.2018 and therefore, on that ground the petitioner cannot successfully challenge the issuance of patta in favour of the private respondents.

21. In view of the aforesaid discussion, the petitioner cannot successfully make out any case to seek for a mandamus to consider his plea dated 05.05.2018 by way of a representation and accordingly this Court feels that, this writ petition fails and the hence it is liable to be dismissed. Accordingly, the same is dismissed. No costs.

s/d-
Assistant Registrar(CS VIII)

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Sub-Assistant Registrar

KST

To

1. The District Collector,
Villupuram.
2. The Thasildar,
Villupuram.

+1 CC to Mr. Suresh, Advocate, Sr 30505.
+1 CC to The Government Pleader, Sr 30396.

W.P.No.14312 of 2018

RSV(CO)
LS(19/07/2021)