



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.17422 OF 2021

AND

WMP.NOS.18488 & 18489 OF 2021

R.Bhuvaneswari

...Petitioner

Vs

1.The District Revenue Officer,
Tirupur

2.The Revenue Divisional Officer,
Udumalpet

3.The Tahsildar,
Madathukulam

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records relating to the second respondent's order made in Na.Ka.No.271/2020/A3 dated 30.06.2020 and the first respondent's order made in Na.Ka.17751/2019/J2 dated 09.07.2021, to quash the same and to consequently direct the respondents to restore Patta No.1517 in favour of the petitioner.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.V.Jeevagiridharan,
Additional Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for records relating to the second respondent's order made in Na.Ka.No.271/2020/A3 dated 30.06.2020 and the first respondent's order made in Na.Ka.17751/2019/J2 dated 09.07.2021, to quash the same and to consequently direct the respondents to restore Patta No.1517 in favour of the petitioner.

2. Heard, Mr.L.Chandrakumar, the learned counsel for the petitioner and Mr.V.Jeevagiridharan, Additional Government Pleader appearing for the respondents.



3. The land comprised in survey No.33/2 admeasuring 70 cents, Thanthoni Village, Madathukulam Taluk, Tiruppur District was originally assigned in favour of one, Tukkan Madiri S/o Palani Madiri under 'D' Namuna patta by the proceedings dated 30.11.1978 by the third respondent in proceedings DR.No.10/88. After demise of the said Tukkan Madiri during the year 1988, his legal heirs Kalimuthu, Chinnasamy and Sivalingam derived title over the property. Thereafter, they chosen to sell the property in favour of the petitioner in the year 1994 by the registered sale deed dated 30.06.1994 vide document No.611 of 1994. Immediately after four days, the daughter of the deceased assignee executed sale deed in favour of one, Muthusamy insofar as her $\frac{1}{4}$ share in the subject property. Thereafter, $\frac{1}{4}$ share was also purchased by the petitioner from the said Muthusamy by the registered sale deed dated 23.08.2013 vide document No.3008 of 2013. Thereafter, the entire property is in possession and enjoyment of the petitioner. In fact, the petitioner was also issued patta in patta Nos.139 and 1517 in respect of the property comprised in survey No.33/2.

3.1 While being so, on the complaint lodged by the general public of the village, the second respondent issued notice to the petitioner for enquiry. In the complaint, alleged that the subject land was assigned for the scheduled caste community people and it should not be sold out for a period of 30 years from the date of the assignment and even after 30 years, it should be sold only on permission from the authority concerned. Further alleged that the legal heirs of the assignee sold out the property within a period of thirty years i.e. in the year 1994 and that too, in favour of the persons who are not belonging to the scheduled caste community. The second respondent conducted enquiry and found that the order of assignment is very clear that if any one of the condition is violated, the assignment shall be cancelled. Accordingly, the second respondent cancelled the assignment granted in favour of the original assignee and also cancelled the patta issued in favour of the petitioner. Aggrieved by the same, the petitioner filed appeal before the first respondent and the first respondent also reiterated the very same reasons and dismissed the appeal.

4. On perusal of the counter filed by the third respondent, revealed that the subject land was originally assigned in favour of one, Tukkan Madiri S/o Palani Madiri by proceedings dated 30.11.1978 in 'D' Namuna patta. After his demise, his legal heirs were in possession and enjoyment of the same. However, they sold out the subject property by the registered sale deed dated 30.06.1994 vide document No.611 of 1994. Therefore, they violated the assignment condition and as such assignment patta has been cancelled. In pursuant to the same, subsequent



purchaser i.e. the petitioner is not entitled for any patta and her patta was also cancelled after conducting due enquiry.

5. It is also seen that while cancelling the assignment patta, the original assignee or the legal heirs of the original assignee were not served any notice. Admittedly, the petitioner purchased the subject property in the year 1994 and after purchase, the petitioner is in possession and enjoyment of the same. In fact, she was also issued patta in patta Nos.139 and 1517 in respect of the subject property. Only on the complaint lodged by the general public of the village on 22.01.2020, the second respondent conducted enquiry, that too, without any notice to the original assignee or his legal heirs, and mechanically cancelled the assignment patta. In pursuant to the same, patta issued in favour of the petitioner was also cancelled. The appellate authority i.e. the first respondent herein, without considering the grounds raised by the petitioner, mechanically dismissed the appeal and reiterated the reasons stated by the second respondent. From the date of purchase i.e. in the year 1994, for the past 26 years till the complaint lodged by the general public, the petitioner is in possession and enjoyment of the property without any objection from anybody. That apart, though the legal heirs of the deceased assignee sold out the property within a period of thirty years, no one objected the same and the petitioner is in possession and enjoyment of the said property for the past 26 years. The petitioner is cultivating the said land by raising various agricultural crops.

6. As stated supra, the respondents failed to issue any notice to the assignee or his legal heirs and as such it could not be cancelled without any notice and without conducting enquiry with the assignee or legal heirs of the assignee.

7. In view of the above, the impugned orders cannot be sustained and liable to be set aside. Accordingly, the impugned orders dated 30.06.2020 and 09.07.2021 are set aside and the writ petition is allowed. Consequently, the patta issued in favour of the petitioner in patta Nos.139 and 1517 in respect of the land comprised in survey No.33/2, Thanthoni Village, Madathukulam Taluk, Tiruppur District are hereby restored in the name of the petitioner. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

1.The District Revenue Officer,
Tirupur.

2.The Revenue Divisional Officer,
Udumalpet.

3.The Tahsildar,
Madathukulam.

+1cc to Mr.L.Chandrakumar, Advocate Sr.No.68527

+1cc to the Government Pleader SR.No.69584

WP.No.17422 of 2021

SMI (CO)
RVM(06/01/2022)