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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.14353 of 2014

and

M.P.No.1 of 2014

Mohamed Imranullah

... Petitioner

-Vs-

1. The Principal Secretary,
and Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The District Revenue Officer,
Kancheepuram District.
3. The Tahsildar,
Madhuranthakam Taluk,
Kancheepuram District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent dated 29.11.2013 in D.Dis.No.K4/20453/2011 confirming the order of the second respondent in his proceedings in RC.No.46272/08/B3 dated 30.05.2011 and to quash the same and consequently direct the respondents to transfer the patta in the name of this petitioner.

For Petitioner : Mr.V.Raghavachari
For Mr.S.C.Vishwanath
Ms. K.Abarnashri

For Respondents

For R1 to R3 : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records of the first respondent dated 29.11.2013 in D.Dis.No.K4/20453/2011 confirming the order of the second

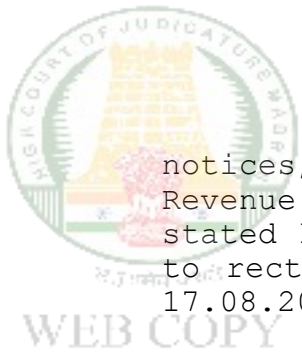


respondent in his proceedings in RC.No.46272/08/B3 dated 30.05.2011 and to quash the same and consequently direct the respondents to transfer the patta in the name of this petitioner.

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2. The case of the petitioner is that the land comprised in survey No.40/2 to an extent of 2.51 acre situated at Palliagaram Village, Madurantakam Taluk was assigned by the Sub-Collector, Chengalpattu by the proceedings dated 06.01.1983 to one Pandurangan Naidu, under the poor landless ex-servicemen category. In pursuant to the same, the third respondent was directed to issue D Form patta to him. The Tashildar viz., the third respondent issued printed proforma D Form patta No.DKT1/92/82 in favour of the said Pandurangan Naidu. The third respondent while issuing D Form patta, put a written condition as clause 4(a) that the assignee shall not mortgage the land for the period of 10 years from the date of assignment. After expiry of 10 years from the date of assignment, the said Pandurangan Naidu sold the said land to one Sabira Khalil by the registered sale deed dated 19.07.1995 vide document No.504 of 1995. Thereafter, she sold the subject land to the petitioner by the registered sale deed dated 10.08.2006 vide document No.2826 of 2006. In pursuant to the said sale deed, the petitioner's vendor requested the third respondent to transfer the patta in favour of the petitioner. However, the third respondent informed the petitioner's vendor that the property remains recorded in the village accounts as Punjai Annadheenam and Poramboke and rejected the request of the transfer of patta.

3. Against the said order passed by the third respondent, the petitioner and his vendor by the letter dated 05.09.2008 requested the third respondent to rectify the mistakes in the records and issue patta. Since, there was no response, the petitioner was constrained to send another representation dated 29.09.2008, to the first respondent for necessary action. In turn, the first respondent called for records from the revenue officials and accordingly, the second respondent submitted his final report dated 26.04.2009, stating that the land was inspected and found that it was cultivated by vegetables and it is possession and enjoyment of the petitioner and there is no violation of law as such the same has been sold after the period of ten years from the assignment. There was UDR mistake in village records and sought permission to rectify the same. On receipt of the same, the first respondent by the proceedings dated 01.04.2010 directed the second respondent to take action on the petition in accordance with law, considering the issues and if the second respondent is satisfied that there was bonafied assignment made and not brought into the revenue records, make necessary changes as per rules. If the assignment is originally made and if there is any violation of conditions



notices, necessary action can be taken as per the provision of Revenue Standing Order 15 and if there is a UDR mistake as stated by the Tahsildar, the second respondent is the competent to rectify the such mistake as per G.O.Ms.No.385 Revenue dated 17.08.2008.

4. Thereafter, the second respondent submitted the detailed report before the first respondent stating that the assignee Pandurangan Naidu has sold the land to the petitioner's vendor without obtaining any prior permission and as such the conditions stipulated in the D Form patta had been violated and dismissed the application for transfer of patta by his proceeding dated 30.05.2011. It was challenged by the petitioner by way of revision before the first respondent and the same was also dismissed by an order dated 29.11.2013, for the reason that the original assignee of the land has not engaged in direct cultivation and thus violated the condition of his assignment. Aggrieved by the said order, the petitioner filed this Writ Petition with the above said prayer.

5. The third respondent filed counter and stated that though the Sub-Collector sanctioned the assignment, the third respondent is the competent authority to assign the land. Therefore, the Sub-Collector passed the assignment order and instructed the third respondent to issue D Form patta by incorporating conditions. The petitioner's vendor could not have made an application immediately after the sale. Further, after purchase of the subject property, the petitioner and his vendor made the application and as such before purchase of the subject property, they knew very well about the status of the land in the revenue records. Further, the original assignee sold out the property violating the assignment conditions and even the original assignee did not take any steps to rectify the land from Annadheenam and Poramboke. The assignment conditions would applicable to all the assignee and only priority would be given to the ex-servicemen. Therefore, the ex-servicemen cannot claim any super specialty and the assignment is one a concessions and not a matter of right. The first respondent has power to cancel the assignment, if any of the conditions violated. Further, the original assignee himself did not raise any objection on the conditions imposed as clause 4(a) by the third respondent and as such, the petitioner has no locus to challenge the conditions imposed by the third respondent while assigning the land.

6. Heard Mr.V.Raghavachari, learned counsel appearing for the petitioner and Mr.V.Jeevagiridharan, learned Additional Government Pleader appearing for the respondent 1 to 3.

7. The first respondent directed the second respondent to take action on the petition in accordance with law considering



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the following points :-

"(i) If the District Revenue Officer is satisfied that there was bonafied assignment made and not brought into the revenue records, it has to be decided by the District Revenue Officer and make necessary changes as per rules (or)

(ii) If the assignment was originally made and if there is any violation of conditions are noticed, necessary action can be taken as per the provision of the RSO 15 (or)

(iii) If there is a mistake in Updating Registry Scheme as stated by the Tahsildar in his report dated 16.03.2009, the District Revenue Officer is competent to rectify such mistakes as per G.O.Ms.No.385, Revenue, dated 17.08.2004"

8. Admittedly, the subject land was assigned in favour of one Pandurangan Naidu by the proceeding dated 06.01.1983 in No.K.Dis.20167/82/A, by the Sub-Collector, Chengalpattu. One of the conditions for assignment of patta was that the assigned land shall not be mortgaged for the period of 10 years from the date of assignment. In the event of mortgaging the property after the above period, the assignee should get prior permission from the third respondent. Originally, the assignee sold out the subject property on 19.07.1995 in favour of one Sabira Khalil, ie., after the period of 12 years. Therefore, the original assignee did not violate any conditions of assignment.

9. In fact, after assignment of the subject land in favour of the said Pandurangan Naidu, the Village account classified the subject land as Punjai Annadheenam and Poramboke and no point of time it was classified as Patta land in favour of the original assignee. Thereafter, the petitioner's vendor sold out the subject land in favour of the petitioner by the registered sale deed dated 10.08.2006 vide document No.2826 of 2006. After the purchase of the subject land, the petitioner and his vendor found that the land has been wrongly recorded as Punjai Annadheenam and Poramboke in the records of the Tashildar office and therefore, they submitted the petition to rectify the mistake in the records and issue patta in favour of the petitioner.

10. In fact, the first respondent raised the points stated supra, and directed the second respondent borne in mind, while considering the application. The second respondent rejected the request of the petitioner for the reason that even the sale taken place after the period of 12 years from the date of



assignment, the assignee should get prior permission before execution of the said sale deed. The conditions 4(a) is very clear that the assignee shall get permission, if he intended to mortgage the subject property after completion of the said period from the third respondent. On perusal of D Form Patta issued by the third respondent, the clause 4(a) revealed that the third respondent imposed condition that the assignee should get prior permission to mortgage the subject property, even after completion of ten years. However, after assignment, the third respondent failed to make any changes in the Village and Taluk records.

11. That apart, the first respondent in the impugned order stated that the original assignee never cultivated the subject land, since no Aadangal records in the name of the assignee and no entires have made in the Aadangal that the subject land was directly cultivated by the original assignee. It is contrary to the direction issued by him in the communication dated 01.04.2010 and as such the impugned order cannot be sustained and is liable to be set aside.

12. Accordingly, the order dated 29.11.2013 passed by the first respondent in D.Dis.No.K4/20453/2011, confirming the order dated 30.05.2011 passed by the second respondent in his proceedings in RC.No.46272/08/B3, is hereby quashed. The third respondent is directed to transfer the patta in the name of the petitioner in respect of the land comprised in survey No.40/2 to an extent of 2.51 acre situated at Palliagaram Village, Madurantakam Taluk, within a period of six weeks from the date of receipt of a copy of this Order.

13. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Principal Secretary,
and Commissioner of Land Administration,
Chepauk, Chennai - 600 005.



2. The District Revenue Officer,
Kancheepuram District.

3. The Tahsildar,
Madhuranthakam Taluk,
Kancheepuram District.

+1cc to the Government Pleader, S.R.No.68292

W.P. No.14353 of 2014
and
M.P.No.1 of 2014

SRA (CO)
SU (12/01/2022)