BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD)No.9777 of 2020
and
W.M.P.(MD)Nos.8785 & 8786 of 2020

F.Stella ... Petitioner

Vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The District Revenue Officer,
Dindigul District, Dindigul.

3.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

4.The Executive Officer,
Angalaeswari Amman Temple,
Kombaipatti Village,
Nilakottai Taluk,
Dindigul District.

5.Chandran
6.Prasad ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.28071/2003/A4, dated 11.06.2012 and quash the same and consequently, forbear the respondents from in any way interfering with the petitioner's right to her property in S.Nos.57/1 and 57/2, Kombaipatti Village, Nilakottai Taluk, Dindigul District.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates
For Respondents : Mr.M.Pandiyarajan, Additional Government Pleader for R1 to R3
Mr.A.K.Baskarapandian for R4

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ORDER

The facts and circumstances of the case are stated hereunder:

1.1. The petitioner owns a property to an extent of 2 acres and 78 cents in Survey No.57/1 and 25 cents in Survey No.57/2, Kombaipatti Village, Nilakottai Taluk, Dindigul District. She totally owns a land to an extent of 3 acres and 3 cents, in both Survey Nos.57/1 & 57/2. She purchased the properties for a valuable consideration under a registered sale deed dated 15.09.2017 in Document No.2634 of 2017, on the file of the Sub Registrar, Vatlagundu, from her vendor, one Pitchai. After the purchase of the properties, the revenue records have been mutated in her favour and she was issued with a patta bearing no.2867.

1.2. According to the petitioner, her vendor Pitchai had purchased the properties from the legal heirs of one Jayavel, vide registered sale deed dated 07.09.2011 registered as Document No.4097 of 2011. The said Jayavel had inherited the entire properties, which were owned by his ancestors for several decades. Therefore, according to the petitioner, when her vendor, Pitchai, purchased the properties in the year 2011, there was a clear title to the properties passed on to her. After the purchase of the properties in the year 2017, the petitioner has been enjoying uninterrupted possession as on date. While so, the fourth respondent, who is an Executive Officer of the local Temple, attempted to lease the petitioner’s lands and issued a communication on 27.07.2020 by giving an advertisement in the local panchayat office, as if the lands belong to the Temple. When the petitioner objected to this attempt, the fourth respondent produced a copy of the order passed by the second respondent dated 11.06.2012, wherein, it was stated that the patta issued in favor of private parties was cancelled and the same was mutated in the name of the Temple.

1.3. On verification, the petitioner learnt that the alleged proceedings of the second respondent dated 11.06.2012 was not available in the second respondent’s office at all and therefore, she was at a loss to understand as to how the revenue records were mutated in favour of the Temple, when all along, for several decades, the properties stood in the name of Jayavel’s ancestors and thereafter, devolved on Jayavel, being the legal heir and then to the petitioner’s vendor, Pitchai and then, finally, to the petitioner in the year 2017. All the transactions have been duly registered and therefore, the petitioner invoked the provisions under the Right to Information Act, in order to ascertain the veracity of the proceedings of the second respondent dated 11.06.2012.

1.4. According to the petitioner, it was clarified that the order dated 11.06.2012 was not available in the office of the second respondent. Even otherwise, such an order could not have been passed illegally, as there was no notice to any of the owners of the properties at that point of time. The vendor of the petitioner, namely, Pitchai was not heard, who was actually in possession and enjoyment of the same and though notice was alleged to have been sent to Jayavel, the said Jayavel was not even alive on the date of enquiry, as he died as early as on 01.03.1994. In the above circumstances, the petitioner, being aggrieved by the action initiated by the fourth respondent on the basis of the proceedings of the second respondent dated 11.06.2012, is before this Court.

2. This Court earlier had passed an interim direction to the first respondent on 01.09.2020 to file a report and in pursuance of the said direction, a report dated 04.02.2021 has been filed. The same has been produced before this Court and taken on file. As per the report of the first respondent, the following has been stated:

> *"3. The Public Information Officer and Additional Personal Assistant to the Collector (Land), Dindigul sent the copy of the proceedings which was available in that file at the time of application. The file in Na.Ka.No.28071/2003/B4 is maintained in the Collector's Office, Dindigul to deal the UDR Corrections in respect of Temple Lands of Nilakottai Taluk. The subject was dealt in the 'B' Section (M gphpt[) initially and then it was transferred to 'D' Section later. The reply under the Right to Information Act - 2005 has been given by 'D' Section of Collector's Office. Originally it was dealt in 'B' Section. When the file in Na.Ka.No.28071/2003/B4 was transferred to 'D' Section, the orders related to Kombaipatti Village were not found in the files. Hence I instructed the Section Officers to verify all the files and secure the Orders of the District Revenue Officer, Dindigul, in Na.Ka.No.28071/2003/B4, dated 11.06.2012.*
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> *4. I submit that a Verification of copy of the above said order available in the office of the HR & CE Department clearly shows that the orders passed by the District Revenue Officer in Na.Ka.No.28071/2003/B4, dated 11.06.2012, is a genuine one. It is related to the Survey Nos.57/1 and 57/2 of Kombaipatti Village, Nilakottai Taluk, Dindigul District."*

3. Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner would strongly contend that there is some doubt about the existence of the order passed by the second respondent dated 11.06.2012 and it would either be a concocted one or a manipulated one, as the report of the first respondent itself is not very clear on this aspect. According to the learned Senior Counsel, in fact, it is stated in paragraph no.3 of the report that the order was not available in the Section concerned, but, it was verified from the Hindu Religious and Charitable Endowments Department Office and the

proceedings was found to be genuine. Therefore, he would submit that the apprehension expressed by the petitioner has some substance.

4. On this plea, the learned Additional Government Pleader appearing for the Revenue Department and the learned Counsel appearing for the Temple would strongly oppose the contention on the ground that admittedly, the first respondent has clarified that the proceedings dated 11.06.2012 is a genuine one and in the absence of any cloud over the said proceedings, this Court cannot consider the submission made on behalf of the petitioner and still entertain any doubt in regard to the genuineness of the document.

5. Be that as it may, the learned Senior Counsel would submit that the records pertaining to the order do not conclusively disclose that the appropriate parties were heard before the mutation was ordered under the impugned proceedings. Therefore, fairness demands that the petitioner, who has rightly purchased the properties and the sale having been registered by the public authority, is entitled for an opportunity, before her right to the properties is sought to be negated.

6. However, the learned Counsel appearing for the Temple vehemently opposed this contention stating that why should any opportunity be extended to the petitioner, as she has purchased a Temple property illegally. The records would disclose that the properties belong to the Temple and in case, she has any grievance, she can only proceed against her vendor and not entitled to any further opportunity before the revenue authorities.

7. This Court is unable to appreciate the rigid stand of the learned Counsel appearing for the fourth respondent Temple for the rudimentary reason that an individual’s right cannot allowed to be affected without hearing the individual concerned, by the authority who passed an adverse order against the individual. In this case, the petitioner appears to be a *bona fide* purchaser of the properties and the sale deed was also registered by a public authority. For whatever reasons, the proceedings of the second respondent dated 11.06.2012 was not taken note of and it is not reflected in any of the revenue records, at that point of time. The fact remains that even after the proceedings dated 11.06.2012, the purchase by the petitioner in the year 2017 is registered by the public authority and it has accrued to the right of the petitioner to enjoy the properties without any interference.

8. Therefore, the minimum requirement for the authority concerned is to hear the parties, their objections and thereafter, to take a decision after considering the objections. As rightly submitted by the learned Senior Counsel, whatever be the nature of the properties, whether they belong to the Temple or not, ultimately, no decision could be taken behind the back of the petitioner, who is now in possession of the properties after the

same having been purchased by her by a registered document in the year 2017. This Court, in view of the submission of the learned Senior Counsel, cannot have two opinion and is fairly convinced that the petitioner ought to be heard before any decision is taken by the authority concerned in relation to the status of the subject properties.

9. In view of the above narrative, this Court is of the considered opinion that no prejudice would be caused to any of the parties, if the second respondent is directed to revisit the entire issue and take a decision, afresh, after hearing all the parties, as that alone would satisfy the requirements of the principles of natural justice and the constitutional right of the petitioner also would be safeguarded, if that opportunity is extended to her before any decision is taken detrimental to her interest.

10. In the above circumstances, the impugned proceedings passed by the second respondent in Na.Ka.No.28071/2003/A4, dated 11.06.2012, is set aside. Without expressing any opinion on the merits and demerits of the claims of the rival parties, the matter is remanded back to the second respondent to consider the entire issue afresh, after issuing notice to the petitioner and all other proper and necessary parties and provide them sufficient opportunity to put forth their rival points. The petitioner herein may also be given an opportunity of personal hearing by the second respondent. On the basis of the submissions / objections from the parties concerned and also on the basis of all the relevant materials, the second respondent is directed to pass appropriate order, within a period of twelve weeks from the date of receipt of a copy of this order. Till a final decision is taken by the second respondent in furtherance of this direction, *status-quo*, as on date, shall be maintained.

11. In fine, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

GK

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-5102[F] dated 15/02/2021)

+1CC to Mr.A.K.BASKARAPANDIAN,Advocate (SR-4777[F] dated 12/02/2021)

Order made in
W.P.(MD)No.9777 of 2020 and
W.M.P.(MD)Nos.8785 & 8786 of 2020
12.02.2021

PK(CO)
SRS (18/03/2021) 6P : 6C