



W.P.No.33033 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33033 of 2016
and MP.No.28538 of 2016

Shamsia Amir @ Shamsia Imran Azeem
rep.by her Power of Attorney Mr.Adnan Ahmed Amir

..Petitioner

Vs.

1.The District Revenue Officer,
Tiruvallur District.

2.The Revenue Divisional Officer,
Ponneri, Tiruvallur District.

3.The Tahsildar,
Gumudipoondi Taluk,
Tiruvallur District.

4.S.Manohar

...Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus To call for the entire records relating to the impugned orders passed by the second respondent/ RDO in Na.Ka. No.3636/ 2015/A2 dated 8.10.2015 and consequential impugned order of Status Quo passed by the first respondent/ DRO in Rc. No.31114/2015 (B3) dated 27.7.2016 and quash the same as illegal un-warranted and against to the principles of natural justice and consequentially direct the respondent No.1 & 2 restore the original Entry of Patta No.619 in the petitioner name on the file of the revenue records.



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For Petitioner : Mr.R.Venkatesan
For RR1 to 3 : Mr.U.Bharanidharan
Additional Government Pleader
For RR4 : Mr.K.Balaji

ORDER

This petition has been filed for issuance of writ of Certiorarified Mandamus To call for the entire records relating to the impugned orders passed by the second respondent dated 8.10.2015 and consequential impugned order of Status Quo passed by the first respondent and quash the same as illegal and consequentially direct the respondent No.1 & 2 to restore the original Entry of Patta.

2. The petitioner is a power of attorney of his sister Mrs.Shamsia Amir alias Shamsia Imram Azeem and sworn the affidavit on behalf of her. The case of the petitioner is that he is managing the estate of his sister / principal and his sister is the absolute owner of the schedule of properties lying in S.F.No.1/7, along with other properties in Poovalai Village, at Tiruvelluvar District and the schedule of properties falling in disputed survey no.1/7 to an extent of 2 acres 66 cents and in another



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S.F.NO.1/5C was purchased by his principal from one Shiek Mohammad through the registered Sale Deed, dated 18.08.1993 and based on the title and possession, patta was originally issued to his principal's vendor and subsequently in the name of his principal. While so, the 4th respondent had entered into the affairs of the private temple and illegally claimed that his adjacent vacant land lies in S.F.No.1/7 belongs to private temple and moreover his principal's adjacent survey no.1/7 property has no way connected with the existence of temple located in S.F.NO.1/6, however the 4th respondent has claimed that the adjacent mango groves patta land is also extension of temple property and thereby the 4th respondent has filed a petition dated 12.02.2015, before the 2nd respondent, requested for restoration of patta for S.F.No.1/7 in the name of the temple itself and the 2nd respondent has immediately passed order cancelling the patta standing in the name of the petitioner and restoring the same in the name of the Temple. Aggrieved by the above orders of the 2nd respondent, the petitioner has preferred a petition before the 1st respondent, however the 1st respondent has dismissed the revision petition filed by the petitioner, vide his order dated 27.07.2016. Against



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the orders dated 08.10.2013 of the 2nd respondent and the order of the 1st respondent dated 27.07.2016, the petitioner has filed this petition.

3. The learned counsel appearing for the petitioner submitted that admittedly the petitioner's vendor viz., Sheik Mohammed had purchased the property from one Seethapathu, who is the time being trustee of the temple by way of an unregistered Sale Deed and got mutation of revenue records in his favour. Thereafter, the said Sheik Mohammed has sold the property in favour of the petitioner's principal and revenue records also mutated in favour of the principal, which cannot be interfered by the Revenue Divisional Officer or the District Revenue Officer. They are entitled only to prima facie consider as to whether the person is entitled to patta or not. In the present case, the petitioner's principal possessed valid title over the property and hence the impugned order is liable to be interfered and this Court may restore the patta in favour of the petitioner and further direct the parties to approach the competent Civil Court for appropriate relief.



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4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that an extent of 2.66 acre of dry land comprised in S.F.No.1/7 of Poovalia Village in Gummudipoondi Taluk of Tiruvallur District, had been classified as 'Estate Abolition Act gram' registered in the name of Poojai Ellaiamman Koil in the Old 'A' Register prior to the implementation of the updating registry scheme. Subsequent to the abolition of minor inams as per the Tamil Nadu Minor Grams (Abolition and Conversion into Ryotwari), Act 1963, the inam land in S.F.No.1/7, measuring 2.66 acres stood registered as a patta land in the name of Ellaiyamman, but the above S.F.No.1/7 measuring 2.66 acres has been registered in the name of one Seethapathy Pillai, time being trustee for Ellaiamman Temple in the updating registry accounts. However a perusal of 'A' register shows that patta in the name of Ellaiamma Temple's time being trustee viz, Seethapathy Pillai has been mutated in the name of of one A.Sheik Mohammed, who sold the survey numbers in dispute to the petitioner's principal as per the registered documents.



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5. It is submitted that the petitioner's vendor did not have any valid title deed for the purchase of the survey number 1/7 and however, he has alienated the land in dispute to the petitioner without any valid title deed. In fact, the time being trustee Seethapathy is not entitled to alienate the property on behalf of the 4th respondent Temple, since he is not the owner of the property. He is only a custodian of the property and he ought to have maintained the property as trustee, however instead he created third party right, which is not sustainable and therefore, the petitioner's vendor viz., Sheik Mohammed itself had no valid title over the property and hence, the subsequent purchase made in favour of the petitioner is also not valid and thereby, the mutation of revenue records happened in favour of them, is also not sustainable and hence prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials available on record.

7. Facts in the present case is not in dispute. Admittedly an extent



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of 2.66 acre of dry land comprised in S.F.No.1/7 of Poovalai Village in Gummudipoondi Taluk of Tiruvallur District, had been classified as 'Estate Abolition Act gram' registered in the name of Poojai Ellaiamman Koil and Subsequent to the abolition of minor inams, the said inam land stood registered as a patta land in the name of Arulmigu Ellaiyamman, but the above S.F.No.1/7 measuring 2.66 acres has been registered in the name of one Seethapathy Pillai, time being trustee for Ellaiamman Temple. However the said Seethapathy Pillai has illegally and without any valid title, had sold the said property to the petitioner's vendor viz., Sheik Mohammed by way of an unregistered Sale Deed and got mutation of revenue records in his favour. Thereafter, the said Sheik Mohammed has sold the property in favour of the petitioner's principal. However, this Court is of the view that the petitioner's vendor viz., Sheik Mohammed itself had no valid title over the property and hence, the subsequent purchase made in favour of the petitioner is also not valid and thereby, the mutation of revenue records happened in favour of them, is not sustainable.

8. Before passing the impugned orders on 08.10.2015, the 2nd



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respondent, in pursuant to the report submitted by the 3rd respondent, has enquired the petitioner, 4th respondent and the petitioner's vendor. As the patta stood in the name of Ellaiamman Temples the-time being trustee Seethapathy was erroneously mutated the revenue records in the name of the petitioner's vendor, in the absence of any valid document. It is submitted that the impugned orders have been passed on 08.10.2015 and 27.07.2016 by the 2nd respondent and 1st respondent respectively in accordance with the provisions of Revenue Standing Order No.31(8) and after affording opportunity of hearing to the petitioner and the 4th respondent. Hence there is no violation of procedures in passing the impugned orders by the respondents 1 and 2 and thereby the impugned orders does not warrant interference of this Court.

9. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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To

- 1.The District Revenue Officer,
Tiruvallur District.
- 2.The Revenue Divisional Officer,
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- 3.The Tahsildar,
Gumudipoondi Taluk,
Tiruvallur District.



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M.DHANDAPANI.,J.

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