



W.P.No.33257 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.33257 of 2016
and
W.M.P.No.13445 of 2017

Lakshmanan

...Petitioner

Vs.

1. The District Revenue Officer,
Perambalur.

2. The Sub-Collector,
Perambalur.

3. K.Annapooranam

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ Certiorari by calling for records with respect of impugned order dated 29.07.2016 passed by the 1st respondent in his proceedings in Na.Ka.A3/14729/14 and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.P.Sathish, AGP, for R1 & R2
: No appearance, for R3



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ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorari to call for the records of the 1st respondent in respect of the proceedings dated 29.07.2016 in Na.Ka.A3/14729/14 and quash the same.

2. The case of the petitioner is that, he has purchased the property comprised in S.F.Nos.276/3 & 276/4 situated at Mettupalayam North Village, Perambalur District from one Karuppaiya and Saroja, vide sale deed dated 29.11.2012 for valid sale consideration and has also obtained patta in his favour. Pursuant to the said purchase, the petitioner is in absolute possession and enjoyment of the said property. Whiles, the 3rd respondent herein made an application dated 03.12.2012 before the 2nd respondent, seeking to cancel the patta granted in favour of the petitioner, however, the 2nd respondent after careful consideration of the titles, has dismissed the said application filed by the 3rd respondent, vide order dated 11.09.2014, aggrieved by which, the 3rd respondent preferred an appeal before the 1st



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respondent and on receipt of the same, 1st respondent, without ascertaining any of the above said facts, has allowed the said appeal with a direction to the Tahsildar, Veppanthattai to restore the patta in respect of the subject property in the name of the 3rd respondent. Hence, challenging the same, the present Writ petition is filed.

3. Learned counsel for the petitioner submitted that, the issue arise in the present case has already been settled by the civil court in suit in O.S.No.39 of 1996 filed by the petitioner's vendors namely Karuppaiya and Saroja as against the 3rd respondent's husband and the same was decreed in favour of the petitioner's vendors, vide decree dated 06.04.2004, confirming their possession over the subject property, and further, the appeal in A.S.No.98 of 2008 filed by the 3rd respondent's husband as against the decree dated 06.04.2004 was also dismissed, vide decree dated 28.01.2009, confirming the decree passed in the above said suit and subsequently, the husband of the 3rd respondent has filed a second appeal in S.A.No.1197 of 2009 before this Court and the same is pending. Whiles, without considering the above said decrees, the 1st respondent has mechanically allowed the appeal filed by the 3rd respondent, vide present impugned order,



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which is not sustainable and it amounts to disobedience of the above said decrees dated 06.04.2004 & 28.01.2009 passed by the lower court. Hence, he prayed for appropriate orders.

4. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents.

5. Though notice has been served on the 3rd respondent, however, none appeared on behalf of the 3rd respondent. Hence, considering the period of pendency of the present Writ petition before this Court, this Court is inclined to pass the following order, based on the materials available on record.

6. A perusal of the materials placed on record reveal that, the 3rd respondent claims that the subject land was originally assigned in favour of her husband's father and the same was devolved upon her husband and the revenue records were wrongly mutated in favour of the petitioner, which is not sustainable and that, the subject land is classified as Adi Dravidar land, whileso, neither the petitioner nor his vendors belong to Adi Dravidar community, hence, alienation of the subject land in favour of the petitioner is



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not sustainable and they are not entitled to possess or enjoy the same, therefore, she made application for cancellation of the patta issued in favour of the petitioner.

7. It is pertinent to note that, though the appeal filed by the 3rd respondent challenging the order dated 11.09.2014 passed by the 2nd respondent was allowed in her favour, however, as rightly pointed out by the learned counsel for the petitioner, as the issue involved in this petition was already settled by the lower court in O.S.No.359 of 1996 and A.S.No.98 of 2008, whileso, without taking into consideration the said decrees passed in the above said suit and appeal, the 1st respondent has allowed the appeal filed by the 3rd respondent, which is not sustainable.

8. Further, the second appeal filed by the 3rd respondent's husband in S.A.No.1197 of 2009 is pending and no order of stay has been granted in favour of the 3rd respondent. Hence, this Court is of the view that, the present impugned order passed by the 1st respondent is liable to be set aside, as the same was passed by reversing the decrees dated 06.04.2004 &



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28.01.2009 passed in O.S.No.359 of 1996 and A.S.No.98 of 2008.

However, liberty is granted to the 3rd respondent to file appropriate application for issuance of patta in her favour in respect of the subject property, after succeeding in the pending Second appeal.

9. For the reasons aforesaid, this Writ petition is allowed. No costs.

Consequently, connected Miscellaneous petition is closed.

06.07.2022

skt

Speaking Order : Yes/ No

Index : Yes/ No

To

1. The District Revenue Officer,
Perambalur.
2. The Sub-Collector,
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