



W.P.No.29352 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

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

W.P.No.29352 of 2014

and

M.P.No.1 of 2014

R.Sekar

...Petitioner

Vs.

1. The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

2. K.Selvaraj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in Na.Ka.A2/698/2014 dated 11.10.2014 passed by the 1st respondent quash the same and consequently direct the respondents from in any way interfering with the petitioner's right to property over the lands measuring 16 cents in S.F.No.278/1, Kaniyamur Village, Kallakurichi Taluk.

For Petitioner : Mr.N.Manokaran



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For Respondents : Mr.R.P.MuruganRaja, GA, for R1.
: Mr.R.Nalliyappan, for R2.

ORDER

The petitioner has filed this writ petition seeking issuance of A Writ of Certiorarified Mandamus to call for the records inrespect of the order dated 11.10.2014 passed by the 1st respondent in Na.Ka.A2/698/2014, quash the same and a consequential direction to the respondents not to interfere with the petitioner's right over the subject property.

2. The case of the petitioner is that the land measuring an extent of 0.74.5 Hectare comprised in S.No.278/2 was owned by the petitioner's father by way of possessory title and after his demise, the petitioner is in possession and enjoyment of the same. While so, due to some dispute with regard to the enjoyment of the subject property, the petitioner filed a suit in O.S.No.530 of 1993 and the same was dismissed on 08.02.1996, against which, the petitioner preferred an appeal in A.S.No.15 of 1997 on the file of the Sub-Court, Kallakurichi and when the same was pending, the parties in the said appeal entered into compromise and filed a compromise petition in I.A.No.81 of 1997 to that effect and accordingly, a compromise decree was passed on 18.03.1997, confirming the petitioner's title over the subject property.



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Subsequently, the petitioner sold a portion of the said property to an extent of 22 cents and 44 cents in favour of one Ganapathy and Parimaladevi respectively, vide separate sale deeds dated 23.10.1998 and 08.10.1998 respectively. While so, the National Highways Authority of India (in short 'NHAI') issued notification under Section 3 A of the National Highways Act (in short 'Act'), notifying the intention to acquire the lands for public purpose and subsequently, the declaration under Section 3D of the said Act was issued, despite the objection made by the petitioner under Section 3C of the Act and the Declaration under Section 3D(1) of the said Act was also issued. Thereafter, the petitioner's objection was considered as to the value of the property and the construction made therein and determined the compensation amount and the same was deposited with the competent authority. Subsequently, the 1st respondent, vide proceedings dated 30.09.2009, passed an order quantifying the value of the structure, wells, trees available as Rs.19,32,560/- and quantified a sum of Rs.23,91,829/- as compensation towards the lands being the amount payable to the petitioner and others.

3. Whiles, pursuant to the objection made by the 2nd respondent, the



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1st respondent passed an order to deposit the compensation amount in the joint account of the 1st respondent and the Project Director, NHAI and later, passed an order dated 18.02.2010 made in Na.Ka.287/2009 NH 68, referring the matter to the Principal District Court, Villupuram with regard to the apportionment of the compensation and issued a further direction to deposit the amount of Rs.19,32,560/- in Court deposit. Challenging the above said orders dated 30.09.2009, 18.02.2010 & 19.02.2010, the petitioner filed a Writ petition before this Court in W.P.No.6120 of 2010 and the same was allowed on 19.08.2010 and pursuant to which, the petitioner was paid with the compensation amount in respect of the subject land on 13.10.2010 and in respect of payment of compensation for the structures and tress, the matter was referred to the Sub Court, Kallakurichi and the same was taken up on LAOP.No.1 of 2010 and after adjudication the Reference Court, vide decree dated 10.12.2011, arrived at a conclusion that the petitioner is entitled to receive the compensation in respect of the building, well and trees. Aggrieved by the same, the 2nd respondent filed an appeal in A.S.SR.No.25523 of 2012 and the Division Bench of this Court dismissed the said petition in M.P.No.1 of 2012, vide, order dated 24.08.2012 and the same



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has become final. Despite the above said proceedings having ended in favour of the petitioner, till date, the petitioner's petition in I.A.No.36 of 2014 in LAOP.No1 of 2010, seeking withdrawal of the remaining amount is pending. While such being the case, in order to wreck vengeance, the 2nd respondent filed a complaint before the 1st respondent, as if the subject property is assigned in favour of his grandfather namely, Narayanan and pursuant to which, the 1st respondent has passed the present impugned order dated 11.10.2014 in Na.Ka.A2/ 698/ 2014, cancelling the patta issued in favour of the petitioner, on the ground that the condition imposed in the assignment patta was violated by the said Narayanan by alienating the subject property to the person, who does not belong to Depressed class and issued a further direction to issue patta in favour of the 2nd respondent in respect of the subject property to an extent of 16 cents. Challenging the same, the present Writ petition is filed.

4. Learned counsel appearing for the petitioner submitted that the issue arises in the present case is already settled by this Court in W.P.No.6120 of 2010 and subsequently by the Reference Court, vide, decree dated



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10.12.2011 passed in LAOP.No.1 of 2010 affirming the petitioner's title over the subject property and further, the same was also confirmed by the Division Bench of this Court, vide, order dated 24.08.2012, which clearly shows that all the Judicial forums have arrived to a conclusion that the petitioner is the owner of the subject property and he is entitled to receive the compensation in respect of both the land and the structures and trees in it. While so, the revenue officials without considering any of the above said facts, has mechanically passed the present impugned order, cancelling the patta issued in favour of the petitioner in respect of the subject property, which is wholly contrary to the decision taken by this Court and the Hon'ble Division Bench of this Court. Hence, he prayed for appropriate orders.

5. Learned Government Advocate appearing on behalf of the first respondent submitted that the petitioner's possession over the disputed land is not in dispute, however, the only dispute in the present case in hand is the transfer of the subject property by the petitioner's father, as the same was transferred to the petitioner's name without proper sale deed. Further, when the acquisition proceedings were initiated and the notification was published



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in the Gazette dated 13.03.2009, since an objection was received from the 2nd respondent, the compensation amount of Rs.19,32,360/- was deposited in the Principal District Court, Villupuram, as there was a dispute between the petitioner and the 2nd respondent with regard to the title over the subject property. He further submitted that, though the petitioner claim that he is the absolute owner of the subject property, however, the Government gazette dated 17.07.1935 exhibits that an extent of 1.84 acre in R.S.No.278 in Kaniyamoor village was reserved to depressed people, which was assigned to one Narayanan, who belongs to Adi-dravidar Community in D-Form in DKT/88/73. The petitioner's claim that the 2nd respondent does not have any patta to be produced before the 1st respondent is denied and ample of records are available to establish the existence of the above said Conditional patta assigned to Narayanan in D-Form. However, the petitioner has failed to establish how a conditional patta was transferred in his name, hence, his claim for the right over the property does not have any merits. Accordingly, he prayed for dismissal of the present Writ petition.

6. Learned counsel appearing on behalf of the second respondent



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submitted that unless the revenue records stands in the name of the petitioner, he cannot claim title over the said property, merely based on the compromise decree dated 18.03.1997 passed in A.S.No.15 of 1997 alone. Further, based on the order dated 19.08.2010 passed by this Court in W.P.No.6120 of 2010, the petitioner has received his share of compensation, which will not in any way confer the petitioner's title over the property. He further submitted that, the A.S.SR.No.25523 of 2012 filed by the 2nd respondent along with an application in MP.No.1 of 2012, seeking for permission to file the above appeal as an indigent person is only dismissed and not the main appeal was dismissed on merits, whileso, stating that the issue attained finality cannot be acceded to, as the compensation in respect of the building and trees are still staying as Court deposit. The petitioner has no locus to claim title over the property only based on the possession and during the course of enquiry, the petitioner was unable to prove his ownership over the property and the order impugned in this Writ petition is passed by the 1st respondent only after conducting enquiry and after affording sufficient opportunity and the same cannot be found fault with. Hence, he prayed for dismissal of this Writ petition.



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WEB COPY 7. Heard learned counsel on either side and perused the materials available on record.

8. Admittedly, the decision rendered by this Court in W.P.No.6120 of 2010, the decree dated 10.12.2011 passed by the Reference Court in LAOP.No.1 of 2010 and also the judgment dated 24.08.2012 passed by the Division Bench of this Court in A.S.SR.No.25523 of 2012 is not in dispute, which has discussed the very same issue and settled the same in favour of the petitioner in the above said proceedings. However, contrary to the above said proceedings, the 1st respondent came to a conclusion that, the subject land is assigned to one Narayanan, who belong to Depressed class and cancelled the patta issued in favour of the petitioner in respect of the subject property, on the ground that the condition imposed in the conditional assignment was violated, which is not sustainable.

9. Further, when almost all the legal proceedings initiated both by the petitioner as well as the 2nd respondent have ended in favour of the petitioner



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and when all the judicial forums have arrived at a conclusion that the petitioner is entitled to receive the entire compensation both in respect of the land and the buildings and the trees in it, and once this Court rendered its findings in respect of the subject matter, the same cannot be varied or interfered with by the revenue officials. In the present case in hand, this Court has already affirmed the petitioner's title over the subject property and held that the land, building and trees belongs to petitioner and the same was also confirmed by the Division Bench of this Court, while so, the revenue officials cannot pass an order contrary to the decision arrived at by this Court by way of administrative proceedings.

10. In view of the above, this Court has no hesitation to interfere with the order impugned in this Writ petition, accordingly, the present impugned order dated 11.10.2014 passed by the 1st respondent in Na.Ka.A2/698/2014 is set aside and consequently, the 1st respondent is directed to restore the patta in respect of the subject property in the name of the petitioner.

11. With the above observations and directions, this Writ Petition is



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allowed. No costs.

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Speaking Order : Yes/ No

Index : Yes/ No

To

The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

M.DHANDAPANI,J.

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