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W.P.No.29784 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29784 of 2014
and M.P.No.1 of 2014

Paramsivam

... Petitioner

VS.

- 1.The Collector,
Cuddalore District,
Cuddalore.
- 2.The Revenue Divisional Officer,
Cuddalore.
- 3.The Tahsildar,
Cuddalore.
- 4.The Project Director,
District Rural Development agency,
Cuddalore.
- 5.The Block Development Officer/
Commissioner,
Cuddalore Panchayat Union,
Cuddalore.
- 6.The President,
Annavalli Panchayat,
Cuddalore Taluk,
Cuddalore District.
- 7.The District Revenue Officer,



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Cuddalore.

8.M.Ayyaru

9.G.Deivendran

10.R.Senthamilselvi

11.M.Ramalingam

12.M.Irusappan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorairfied Mandamus, calling for the records and quash the order passed by the 2nd respondent in his Ni.Mu./A3/1643/2014 dated 12.05.2014 and the order passed by the 7th respondent in his Na.Ka.V3/16853/2014 dated 28.08.2014 in as much as they are against the petitioner's interest and consequently issue Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property bearing new S.No.119/21 Hec. 0.13.5 in Annavalli Village, Cuddalore Taluk, Cuddalore District.

For Petitioner : Mr.R.Gururaj

For Respondents : Mr.T.K.Saravanan for RR1 to 3 & 7
Government Pleader

: Mr.Abishek Murthy for RR4 & 6
Government Advocate

: Mr.S.V.Durai Solaimalai for R5

ORDER

This Writ Petition has been filed to call for the records and quash the order passed by the 2nd respondent in his Ni.Mu./A3/1643/2014 dated



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12.05.2014 and the order passed by the 7th respondent in his Na.Ka.V3/16853/2014 dated 28.08.2014 inasmuch as they are against the petitioner's interest and consequently issue Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property bearing new S.No.119/21 Hec.0.13.5 in Annavalli Village, Cuddalore Taluk, Cuddalore District.

2.The case of the petitioner is that the land comprised in S.No.119/21 is in his possession and enjoyment by way of oral lease. There was a “Vadi Vaikal” in the said land and the said “Vadi Vaikal” is used to discharge rain water during the rainy season. While so, the original owners of the property appointed the petitioner's brother as their Power Agent on 28.05.2001, for sale of the property and upon receiving sale consideration on 18.06.2001 registered the property in favour of the petitioner vide Doc.No.495 of 2010 dated 09.02.2010, thereby, petitioner became the absolute owner of the property in S.No.119/21. While so, the 3rd respondent, after adjudication granted patta in favour of the petitioner on 03.03.2010. However, the petitioner out of fear that he will be dispossessed from the said land, initially filed a Writ Petition in this Court in W.P.No.15349 of 2010, in which the 5th respondent therein filed a



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counter-affidavit contending that the property was classified as “Nilaviyal Vaikkal” and that there is an odai, which is being renovated under the National Rural Employment Guarantee Scheme and this Court vide its order dated 25.02.2014, issued a direction to the 2nd respondent/ Revenue Divisional Officer to conduct an enquiry within a period of two weeks from the date of receipt of the order, after issuing notice to the petitioner and pass appropriate order, pursuant to which, the District Revenue Officer/ 7th respondent passed the present impugned order. Challenging the same, the present Writ Petition has been filed.

3.The learned counsel for the petitioner would submits that admittedly the said “Vadi Vaikal” belongs to the petitioner and the same was purchased. It is a private “Vadi Vaikal” and does not belong to the Government and earlier, patta was granted to the petitioner. However, the District Revenue Officer without advertng to the basis on which the Tahsildar, had granted patta earlier in favour of the petitioner has held the same to have been passed without authority and held that no patta can be granted in favour of any individual in respect of “Nilaviyal Odai” and the patta was cancelled. The said finding recorded by the District Revenue Officer is not based on the materials



and is not sustainable. Accordingly, he prays for appropriate orders.

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4.Though the Writ petition is filed in the year, 2014, however, till date counter is not filed. Considering the long pendency of the case, this Court is inclined to dispose of the Writ Petition based on the available record.

5.Admittedly, the petitioner obtained patta in respect of S.No.119/21, for a land which is classified as “Nilaviyal Vaikkal” in the revenue records. Apprehending eviction from the said land, the petitioner earlier filed a Writ Petition before this Court in W.P.No.15349 of 2010 and this Court vide its order dated 25.02.2014, issued a direction to the Revenue Divisional Officer to decide the issue and pass appropriate orders, pursuant to which the District Revenue Officer/ 7th respondent passed the present impugned order.

6.When it is the case of the petitioner that he has purchased the property, this Court is at a loss to understand the basis for the apprehension of the petitioner, what prompted the petitioner to file the Writ Petition is not clear. Further the petitioner has not taken any steps to correct the entries in the Revenue Records if really the land is classified as “Vadi Vaikal”



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7.However, on perusal of the record, it is seen that the said land is classified as “Nilaviyal Vaikkal”, and for the land classified as such, no patta can be granted in favour of any individual and hence, the patta which was issued by the then Deputy Tahsildar in Patta No.191 was recommended to be cancelled and any encroachment made in the “Nilaviyal Odai” was directed to be removed, the order passed cannot be interfered as it is a well considered order. Accordingly, the prayer sought for in this Writ Petition cannot be granted and the Writ Petition is dismissed. However, liberty is granted to the petitioner to workout his remedy before the competent Civil Court, if he still feels that the land in “Nilaviyal Odai” and belongs to him.

8.Accordingly, this Writ Petition is dismissed with then aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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gba

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