



W.P.No.30927 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.30927 of 2022

Kumari

...Petitioner

Versus

1.State of Tamil Nadu,
Rep. by its Secretary,
Revenue and Disaster Management Department,
Fort St.George,
Chennai – 600 009.

2.The Sub Collector,
Office of the Sub Collector,
Tindivanam.

3.The Revenue Tahsildar,
Office of the Revenue Tahsildar,
Tindivanam.

4.C.Sugumaran

...Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of certiorarified mandamus calling for the
records of the third respondent in respect of the impugned order dated



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25.05.2022 in Na.Ka.A4/4297/2021 and quash the same and consequently, direct the respondents 1 & 2 to resume the House site measuring 0.06 cents comprised in R.S.No.262/12, Gidangal Village, Tindivanam Taluk from the fourth respondent.

For Petitioner : Dr.S.S.Swaminathan
For Respondents – 1 to 3: Mr.U.Bharanidharan,
Additional Government Pleader

ORDER

Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the respondents 1 to 3. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The relief sought by the petitioner in this writ petition is to call for the records of the third respondent in respect of the order dated 25.05.2022 in Na.Ka.No.A4/4297/2021 and quash the same and consequently, direct the respondents 1 & 2 to resume the House site measuring 0.06 cents of land comprised in R.S.No.262/12, Gidangal Village, Tindivanam Taluk from the fourth respondent.



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3. The brief facts of the case are as follows:

The second respondent vide proceedings in R.Dis.28678/64 dated 06.10.1964 assigned 0.06 cents of Natham Poramboke house site in R.S.No.269/12 situated at Gidangal Village in favour of petitioner's mother Mrs.Yasothai Ammal subject to the special conditions in addition to the usual conditions. One of the special conditions attached to the assignment of said land is the assignee's interest in the site shall be inheritable but not alienable. After the demise of petitioner's mother, violating the special conditions attached to the assignment, legal heirs of the deceased Yasothai Ammal sold the assigned land to one Ms.Pushpalatha vide registered Sale Deed dated 24.07.1980. The said Pushpalatha sold the above said site assigned to Yasothai Ammal to the fourth respondent by way of registered Sale Deed dated 13.04.2005.

3.1. While so, one J.Ramesh filed a suit in O.S.No.562 of 2008 before the District Munsif Court, Tindivanam, for partition and permanent injunction against the fourth respondent on the basis of the Sale Deed dated 16.12.2008 executed by the petitioner and petitioner's sister Shanthi in his favour, in respect of 2/6th share of the aforesaid land. The trial Court vide



judgment and decree dated 30.03.2012 dismissed the said suit, which was confirmed by the First Appellate Court i.e., Principal Sub Court, Tindivanam vide judgment and decree dated 15.02.2008 and the same was affirmed by this Court in S.A.No.26 of 2020 vide judgment dated 05.03.2020. Subsequent to the dismissal of the suit O.S.No.562 of 2008, the said Ramesh by virtue of petition dated 23.04.2012, obtained information regarding House site assignment and its special conditions in favour of deceased Yasothai Ammal under Right to Information Act.

3.2. In the meantime, petitioner gave a petition dated 07.08.2012 to the District Collector, Villupuram, pursuant to which, enquiry was conducted by Zonal Deputy Tahsildar I, Tindivanam and the report was submitted to the Tahsilar, Tindivanam. The Tahsildar, Tindivanam vide letter in A2/3184/2013 dated 01.08.2013, forwarded the enquiry report to the Revenue Divisional Officer, Tindivanam recommending to cancel the patta granted in favour of fourth respondent, however, pursuant to the said enquiry report, no action was taken either by the Revenue Divisional Officer, Tindivanam or by the respondents 1 to 3. Hence, the petitioner made a representation dated 01.12.2017 to the third respondent and then,



filed a writ petition in W.P.No.34161 of 2017 before this Court seeking to issue a direction to the respondents therein to cancel the patta in respect of the property comprised in S.No.269/12 situated at Gidangal Village, Tindivanam Taluk, Villupuram District to an extent of 936 Sq.ft out of the 6.0 cents of total extent of the land and to include her name as Pattadhar based on the report of the third respondent therein in proceedings AA23184/2013 dated 01.08.2013 and her representation dated 01.12.2017, within a stipulated time. This Court vide order dated 15.06.2021, disposed of the said writ petition in the following manner:

“8. I have considered the submissions made by the learned counsel appearing for the parties and by taking into account of the aforesaid factual matrix and also, the innocuous nature of the prayer sought for in this Writ Petition, this Court is inclined to dispose of this Writ Petition with the following orders:

“That there shall be a direction to the second and third respondents to consider the representation of the petitioner dated 01.12.2017 and pass orders thereon on merits and in accordance with law, after giving an opportunity of being heard to all parties concerned including the Pattadhar if not have already been given such opportunity and pass orders accordingly, on merits within a period of twelve weeks from the date of receipt of a copy of this order.””

Pursuant to the above direction issued by this Court in the order in W.P.No.34161 of 2017 dated 15.06.2021, the third respondent conducted



enquiry and thereafter, vide order in Na.Ka.A4/4297/2021 dated 25.05.2022, rejected the petitioner's petition. Aggrieved over the order passed by the third respondent, petitioner has filed the present writ petition before this Court, for the reliefs stated *supra*.

4. The learned counsel for the petitioner submitted that the subject land was assigned to petitioner's mother in the year 1964 with some special conditions. One of such special conditions is the petitioner's mother and her legal heirs can enjoy the possession of the subject land and they cannot alienate the said land. However, after the demise of petitioner's mother, contrary to such special condition, petitioner's father and other legal heirs of the deceased petitioner's mother sold the subject land to aforesaid Pushpalatha. Thereafter, the said Pushpalatha alienated the subject land to the fourth respondent. Aggrieved over the same, petitioner gave a representation to the third respondent, seeking to cancel the patta stands in the name of fourth respondent in respect of the subject land, however, till date, no action has been taken on her representation. Therefore, the learned counsel prayed this Court to allow this writ petition.



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5. *Per Contra*, the learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the husband and legal heirs of the deceased Yasothai Ammal sold the subject land to the aforesaid Pushpalatha in the year 1980. After 25 years, the said Pushpalatha sold the subject land to the fourth respondent in the year 2005. The petitioner gave a petition to the District Collector, Villupuram in the year 2012 and thereafter, she made a representation to the third respondent in the year 2017. Since the husband and legal heirs of the deceased Yasothai Ammal sold the subject land to a third party as early as in the year 1980, the petitioner cannot claim any right over the subject land. Therefore, this writ petition is not at all maintainable and the same is liable to be dismissed.

6. Since no adverse order is being passed against the fourth respondent, notice to the fourth respondent is dispensed with.

7. Heard the learned counsel on either side and perused the materials placed before this Court.



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8. Admittedly, the second respondent had assigned the subject land to the petitioner's mother in the year 1964 with certain special conditions. One of such special conditions is the petitioner's mother and her legal heirs can enjoy the possession of the subject land, but, they cannot alienate the said land to others. However, after the demise of petitioner's mother, her husband and legal heirs sold the subject land to one Pushpalatha vide registered Sale Deed dated 24.07.1980 and thereafter, the said Pushpalatha sold the very same land to the fourth respondent in the year 2005 vide registered Sale Deed dated 13.04.2005. Aggrieved over the same, the petitioner gave a representation to the third respondent, requesting to cancel the patta issued in favour of the fourth respondent in respect of the subject land, however, the third respondent has rejected her request. Hence, the petitioner is before this Court.

9. From a perusal of the impugned order, it is clearly evident that subsequent to the demise of petitioner's mother, her husband (petitioner's father) and her legal heirs (including petitioner) sold the subject land to said Pushpalatha in the year 1980. Thereafter, the said Pushpalatha sold the



subject land to the fourth respondent in the year 2005 only after a period of 25 years. The petitioner made her representation before the third respondent only in the year 2017 i.e., after a lapse of 35 years from the execution of the Sale Deed dated 24.07.1980.

10. As far as this case is concerned, the petitioner has no interest, right or title over the subject land since her father and the legal heirs of her deceased mother had sold the subject land in the year 1980 itself. Therefore, the third respondent has rightly rejected the petitioner's request for cancellation of patta granted in favour of the fourth respondent.

11. Since the petitioner's case deserves no merit of consideration, this Court cannot grant the relief sought by the petitioner. Hence, this writ petition is dismissed. No costs.

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Index : Yes/No

Speaking Order (or) Non-Speaking Order



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M.DHANDAPANI, J.

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