



W.P.No.30121 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

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

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B.Gokul

...Petitioner

Vs.

1. The District Revenue Officer,
Office of the Collectorate,
Sathuvachari, Vellore District.

2. The Tahsildar,
Arcot Taluk, Vellore District.

3. Gengan

4. Meena

5. Chellammal

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records from the file of the 1st respondent made in Ref.No.Pa.Mu.D.3.8491/2013 dated 14.06.2013 and quash the same and directing the 1st respondent to issue patta in petitioner's name in respect of the property bearing Survey Nos.243 A/3 to an extent of 50 Cents, situated at Irungur Village, Arcot Taluk, Vellore District.



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For Petitioner : Mr.K.Balaji

For Respondents : Mr.G.Krishna Raja, AGP, for R1 & R2

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in respect of the order dated 14.06.2013 in Ref.No.Pa.Mu.D. 3.8491/2013, quash the same and to consequently direct the 1st respondent to issue patta in favour of the petitioner in respect of the property bearing Survey Nos.243 A/3, to an extent of 50 cents, situated at Irungur Village, Arcot Taluk, Vellore District.

2. The case of the petitioner is that originally the subject property belonged to one Chinnapodi and the said property has gone through the hands of many persons and finally stood conveyed in favour of the petitioner's father namely Boopalan, vide registered Sale deed Doc.No. 307/1987 dated 24.07.1987 and from the date of purchase, the petitioner's family is in peaceful possession and enjoyment of the said property. After



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the demise of the petitioner's father, the property devolved upon the petitioner and he is doing brick work chamber business in the said property.

Thereafter, the petitioner made a representation dated 01.10.2012 before the 1st respondent, seeking issuance of patta in his favour and the same was forwarded to the 2nd respondent and pending for enquiry. Whiles, the 3rd respondent herein continuously disturbed the petitioner's possession over the subject property, stating that the subject property belonged to his father one Chinnapaiyan and after his demise, the private respondent herein being the legal heirs of the said Chinnapayan had obtained patta in their name in Patta No.205 in respect of the subject property. On further enquiry, the petitioner came to know that the survey number has been wrongly mentioned as 243 A/2 instead of 243 A/3 in the sale deed dated 24.07.1987 and the said Chinnapaian is the family member of the vendor of the petitioner's father, namely Ethiraj. Immediately, the petitioner made a representation before the 1st respondent seeking to conduct enquiry and pursuant to his representation, the 1st respondent conducted enquiry and passed the present impugned order, vide proceedings in Ref.No.Pa.Mu.D.3. 8491/2013 dated 14.06.2013, rejecting the petitioner's request. Hence, challenging the same, the present Writ petition is filed.



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WEB COPY 3. Learned counsel for the petitioner submitted that, the subject property was initially purchased by one Manikkamal from the original owner namely Chinnapodi and even at that point of time itself, the survey number has been inadvertently mentioned as 243 A/2 instead of 243 A/3 in the said sale deeds. Further, during the UDR scheme, the patta was wrongly issued in favour of one Chinnapaian, who is none other than the husband of one of the legal heirs of one Chinnammal, who purchased the subject property from the said Manikkamal, however, the subject property was purchased by the petitioner's father from the legal heirs of the said Chinnammal for valid consideration. Whiles, due to the error occurred during the UDR scheme, the private respondents herein are claiming rights over the subject property, which is not sustainable and it is also pertinent to note that, inspite of the repeated intimations, the private respondents have not appeared for enquiry before the 1st respondent, which clearly shows that they do not possess valid document to substantiate their contention. He further submitted that, despite the report filed by the Village Administrative Officer and the 2nd respondent, confirming the petitioner's possession over the property and the inadvertent error crept in survey number, the 1st



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respondent has mechanically passed the present impugned order, without verifying any of the said facts, rejecting the petitioner's request for issuance of patta in his favour. Hence, he prayed for appropriate orders.

4. Learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents submitted that the 1st respondent has passed the present impugned order, after conducting a detailed enquiry. Though the report filed by the VAO and the 2nd respondent confirms the petitioner's possession and error in survey number, however, it is pertinent to note that, if the petitioner wants patta in his favour, he has to submit appropriate documents to establish his title over the property and if there is any error in the sale deed / document, he has to file appropriate rectification deed to modify the same. In the case in hand, in the sale deed dated 24.07.1987 executed in favour of the petitioner's father, the survey number is given as 243 A/2 and not 243 A/3, whileso, the petitioner claiming rights over the property comprised in S.No.243 A/3 and seeking patta in his favour in respect of the same, without any valid document is not sustainable.

5. He further submitted that, at the same time, even if the patta in



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respect of the subject property stands in the name of the private respondents, however, no solid proof to establish their title over the subject property was submitted by the private respondents either and they have not appeared for enquiry, despite the several intimations. Accordingly, the 1st respondent issued direction to restore the patta in the name of the original owners namely Parapodi and Chinnapodi, in whose name the property stood before the alleged UDR compilation. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. A perusal of the materials, particularly the sale deed dated 24.07.1987 reveals that, the petitioner's father has purchased the property comprised in S.No.243 A/2 from the legal heirs of the said Chinnammal, whileso, the petitioner claiming patta for the land comprised in S.No.243 A/3 stating that there is an error in survey number, without any valid proof and any inadvertent error in the survey number, without executing rectification deed, as rightly pointed by the learned Additional Government



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Pleader, the said document cannot be relied upon claiming title and also claiming patta in his favour in respect of the subject property. Therefore, the proper course open to the petitioner is to have the error corrected and submit proper document and seek for patta.

8. In view of the above, this Court is of the view that, the 1st respondent has rightly restored the subject property in the names of the original owners and the present impugned order cannot be found fault with. Further, as the issue involved in the present Writ petition is of civil nature, the same cannot be entertained by this Court under Article 226 of the Constitution. Hence, this Court without interfering with the order under challenge, grants liberty to the petitioner to workout the remedy in the manner known to law.

9. For the reasons aforesaid, this Writ petition fails and stands dismissed. No costs.

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Speaking Order : Yes/ No

Index : Yes/ No

To

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M.DHANDAPANI, J.

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