



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.7102 of 2022

S.Sithik Batcha

... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Ponnusangampatti Village,
Thuraiyur Taluk,
Trichy District.

3.S.Gokila

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to issue necessary direction to the second respondent herein forbearing him to give the patta pertaining to the properties bearing survey numbers such as punjai S.No.26/1C1 to an extent of 0.25 cents, S.No.26/1C2 to an extent of 0.23 cents, S.No.26/1F1 to an extent of 0.15 cents, S.No.26/1F2 to to an extent of 0.19 cents, S.No.26/3D1 to an extent of 0.17 cents, S.No.26/3D2 to an extent of 0.90 cents, S.No.26/1B to an extent of 0.54 cents, S.No.26/1D to an extent of 0.35 cents, S.No.26/2F to an extent of 1.05 cents, S.No.25/7A to an extent of 0.32 cents, S.No.25/7B to an extent of 0.32 cents, S.No.25/8B to an extent of 0.20 cents, S.No.27/1A to an extent of 1.14 cents, S.No.24/2B to an extent of 0.68 ½ cents, S.No.24/3A to an extent of 0.77 cents, S.No.24/2C to an extent of 0.75 cents, S.No.24/1B to an extent of 0.78 cents, S.No.24/2D to an extent of 0.73 cents, S.No.18/6A to an extent of 0.30 cents, S.No.18/6B to an extent of 0.31 cents, S.No.15/6 to an extent of 1.30 cents, S.No.3/11A1 to an extent of 0.20 cents, S.No.3/11A2 to an extent of 0.20 cents, S.No.6/8 to an extent of 0.52 cents, S.No.3/6 to an extent of 0.44 cents, S.No.3/11B to an extent of 0.41 cents, S.No.27/2B1 to an extent of 0.82 cents, S.No.27/2B2 to an extent of 0.79 cents are situated at Kannanur Village, Thuraiyur Taluk, Trichy District and also S.No.391/10 to an extent of 1.53 cents, S.No.391/13B to an extent of 0.49 cents are situated at Ponnusangampatti Village, Thuraiyur Taluk, Trichy District, total extent of lands of Acre 16.12 cents in the name of the person who purchased the lands based on the petitioner's representation dated 12.03.2022 made to the respondents.



For Petitioner : Mr.Arul Jenifer
for Mr.S.Abuthaheer

For Respondents 1&2 : Mr.B.Saravanan
Additional Government Pleader

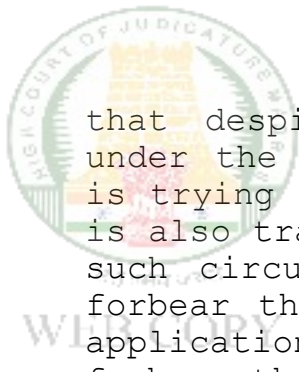
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For Respondent No.3 : Mr.V.Santhakumaresan

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to forbear the second respondent from issuing patta in respect of the properties bearing survey numbers such as punjai S.No.26/1C1 to an extent of 0.25 cents, S.No.26/1C2 to an extent of 0.23 cents, S.No.26/1F1 to an extent of 0.15 cents, S.No.26/1F2 to to an extent of 0.19 cents, S.No.26/3D1 to an extent of 0.17 cents, S.No.26/3D2 to an extent of 0.90 cents, S.No.26/1B to an extent of 0.54 cents, S.No.26/1D to an extent of 0.35 cents, S.No.26/2F to an extent of 1.05 cents, S.No.25/7A to an extent of 0.32 cents, S.No.25/7B to an extent of 0.32 cents, S.No.25/8B to an extent of 0.20 cents, S.No.27/1A to an extent of 1.14 cents, S.No.24/2B to an extent of 0.68 ½ cents, S.No.24/3A to an extent of 0.77 cents, S.No.24/2C to an extent of 0.75 cents, S.No.24/1B to an extent of 0.78 cents, S.No.24/2D to an extent of 0.73 cents, S.No.18/6A to an extent of 0.30 cents, S.No.18/6B to an extent of 0.31 cents, S.No.15/6 to an extent of 1.30 cents, S.No.3/11A1 to an extent of 0.20 cents, S.No.3/11A2 to an extent of 0.20 cents, S.No.6/8 to an extent of 0.52 cents, S.No.3/6 to an extent of 0.44 cents, S.No.3/11B to an extent of 0.41 cents, S.No.27/2B1 to an extent of 0.82 cents, S.No.27/2B2 to an extent of 0.79 cents are situated at Kannanur Village, Thuraiyur Taluk, Trichy District and also S.No.391/10 to an extent of 1.53 cents, S.No.391/13B to an extent of 0.49 cents situated at Ponnusangampatti Village, Thuraiyur Taluk, Trichy District, total extent of lands of Acre 16.12 cents in the names of the persons who purchased the lands based on the petitioner's representation dated 12.03.2022.

2. According to the petitioner, he had earlier entered into an agreement for purchase of the aforementioned properties with the third respondent on 23.12.2015. According to him, the third respondent has received Rs.64,16,000/- from the petitioner under the said agreement but failed to perform her part of the contract by executing a sale deed in favour of the petitioner. It is also contended by the petitioner that the third respondent by her sworn affidavit dated 13.02.2018 has once again confirmed that she will execute the sale deed in favour of the petitioner and no time limit has been fixed under the sworn affidavit. It is contended by the petitioner that he will be approaching the civil Court for specific performance of the agreement of sale dated 23.12.2015 as well as the sworn affidavit dated 13.02.2018. It is contended by the petitioner



that despite having received Rs.64,16,000/- from the petitioner under the agreement of sale dated 23.12.2015, the third respondent is trying to alienate the properties in favour of third parties and is also transferring the pattas in the name of the third parties. In such circumstances, this writ petition has been filed seeking to forbear the second respondent from entertaining any patta transfer applications in respect of the aforementioned properties and to forbear them from transferring pattas in favour of third parties.

3. Heard Mr.Arul Jenifer for Mr.S.Abuthaheer, learned Counsel appearing for the writ petitioner, Mr.B.Saravanan, learned Additional Government Pleader who accepts notice on behalf of the respondents 1 & 2 and Mr.V.Santhakumaresan, learned Counsel who accepts notice on behalf of the third respondent.

4. The petitioner has filed documents along with this writ petition which includes the agreement of sale dated 23.12.2015, sale receipt dated 15.06.2016 issued by the third respondent for having received Rs.64,16,000/-, copy of the sworn affidavit executed by the third respondent dated 13.02.2018 and the copy of the representation submitted by the petitioner dated 12.03.2022 to the official respondents. The petitioner's contention is that the third respondent though having entered into an agreement for sale with the petitioner on 23.12.2015 and having sworn to an affidavit on 13.02.2018, is attempting to alienate and encumber the properties and also attempting to transfer pattas in favour of third parties for the very same properties. Learned Counsel for the petitioner drew the attention of this Court to the documents filed along with this writ petition in support of the petitioner's contentions.

5. However, learned Counsel for the third respondent would vehemently oppose the contentions of the petitioner as raised in this writ petition. He would submit that the third respondent has already sold the property to one Satheeshwaran and therefore, the relief sought for in this writ petition cannot be granted by this Court. According to the third respondent, patta presently stands in the name of one Satheeshwaran.

6. The said contention is disputed by the learned Counsel for the petitioner. He would submit that the total extent of the properties is 16 acres and only portions of the same have been sold by the third respondent and not the entire extent. He would reiterate that having received Rs.64,16,000/- from the petitioner, which is an admitted sum as seen from the sale receipts issued by the third respondent, patta cannot be transferred in favour of third parties.

7. After giving due consideration to the submissions made by the respective Counsels, this Court is of the considered view that no prejudice would be caused to the official respondents, if in future



any application seeking for transfer of patta is made by the third respondent in respect of the above-mentioned properties is considered on merits and in accordance with law after affording a fair hearing to the petitioner and the third respondent. However, it is made clear that insofar as the properties in respect of which mutation of revenue records has already taken place, the only remedy available to the petitioner is to approach the Civil Court and no direction can be issued by this Court with regard to the same. The only protection that can be granted to the petitioner is in respect of the properties where mutation of revenue records has already not taken place.

8. For the foregoing reasons, this Court directs the first and second respondents to give notice to the petitioner in case in the near future the third respondent seeks for transfer of patta involving any of the aforementioned properties and only after affording a fair hearing to the petitioner as well as the third respondent including granting them the right of personal hearing, the first and second respondents shall pass final orders on merits and in accordance with law with regard to the transfer of patta in favour of third parties. However, insofar as the properties where the mutation of revenue records has already taken place, the only remedy available to the petitioner is to approach the Civil Court.

9. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

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/ /2022

Sub Assistant Registrar (CS)

MR

To

1. The District Collector,
Trichy District,
Trichy.

2. The Tahsildar,
Ponnusangampatti Village,
Thuraiyur Taluk,
Trichy District.

+1 CC to M/s. S. ABUTHAHEER, Advocate (SR-18936[F] dated
18/04/2022)



WP[MD]No.7102 of 2022

+1 CC to M/s.SPL.G.P. (SR-19785[F] dated 20/04/2022)

W.P.[MD]No.7102 of 2022
18.04.2022

SB(CO)

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