



W.P.(MD)No.11984 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11984 of 2022

and

W.M.P(MD)Nos.8536 & 8539 of 2022

V.Umarani

... Petitioner

Vs

1.The Director, Land Reforms,
Bhoodan Board, Ezhilagam,
Chepauk, Chennai – 600 005.

2.The District Collector,
Dindigul District, Dindigul.

3.The District Revenue Officer,
Dindigul District, Dindigul.

4.The Revenue Divisional Officer,
Palani, Dindigul.

5.The Tahsildar, Palani Taluk,
Palani, Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the fifth respondent in Na.Ka.No. 8441/2018/A6 dated 18.03.2022 quash the same and consequently, direct the fifth respondent to issue patta in favour of the petitioner in respect of her



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property in Survey No.250/1, Thoopampatti Village, Palani Taluk, Dindigul District within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner's father, namely, Vethachalam had donated the petition mentioned property in favour of Boodhan Board in the year 1995. It was a joint family property. The consent of the other members of the joint family was not obtained. Later, the petitioner's father had second thoughts and settled the very same property in favour of the writ petitioner. It appears that assignment was made in favour of third parties. Since a clear cloud was cast on the petitioner's title, he filed O.S.No.798 of 1987 on the file of District Munsif Court, Palani seeking the relief of declaration and permanent injunction. The case was contested only by the Boodhan Board. The other defendants remained exparte. Issues were framed. Exs.A.1 to A.10 were marked on the side of the writ petitioner. On the side of the defendants / Bhoothana Board, Exs.B.3 to B.13 were marked. The petitioner's brother Palanisamy Gounder were examined as



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P.W.1 and P.W.2. On the side of Boodhan Board an Inspector was examined.

After considering the entire evidence on record, the suit was decreed as prayed for on 26.09.1995. Questioning the same, Boodhan Board filed A.S.No.6 of 1998 before Sub Court, Palani. The appeal was dismissed for non-prosecution. The first appeal was later restored to file and again dismissed. The result is that the judgment and decree dated 26.07.1995 made in O.S.No.798 of 1987 became final. Thereafter, the third party assignees who were also shown as defendants in O.S.No.798 of 1987 have filed O.S.No.362 of 2007 before District Munsif Court, Palani seeking relief for permanent injunction. In the said suit, the writ petitioner was shown as the sole defendant. The said decree dismissing the suit filed by the assignees became final. In these circumstances, the writ petitioner applied to the jurisdictional Tahsildar for issuance of patta. By the impugned order, the petitioner's request was rejected. Challenging the same, this writ petitioner came to be filed.

3. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and direct the fifth respondent to issue patta as prayed for.

4. The learned Special Government Pleader sought time to file counter affidavit. I was not inclined to grant the said request because the case on hand



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is going to be decided based on uncontroverted material. Therefore, I negatived the said request made by the learned Special Government Pleader.

5.I carefully went through the contents of the impugned order. The only ground on which the petitioner's request has been rejected was that the petitioner's father Sundar raj had donated the property in favour of the Boodhan Board and that assignments had been made in favour 7 persons and that they are in possession of the petition mentioned property. I am of the view that none of the reasons can hold good. The petitioner filed a suit and in the suit, the assignees were very much shown as defendants. The petitioner had obtained not only relief of declaration of title in his favour but also permanent injunction that the Boodhan Board as well as assignees should not interfere with the possession. Though the assignees filed O.S.No.362 of 2007, the same was dismissed. The only conclusion is that no one can arrive at a finding after the decree obtained by the petitioner became final. The Revenue Authority can never give findings in favour of a third party contrary to the decision of the jurisdictional civil Court. It is true that the writ petitioner's father originally executed settlement deed in favour of Boodhan Board. But that will not make any difference. The petitioner's father subsequently executed a gift deed in favour of the writ petitioner in respect of the very same property. The jurisdictional civil Court after going into the issue had come to the conclusion



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that earlier gift made by the writ petitioner's father in Boodhan Board was not valid.

6. In this view of the matter, none of the reasons set out in the impugned order are sustainable. They stand quashed. The fifth respondent is directed to issue patta in respect of the petition mentioned property to the writ petitioner. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

10.08.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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