BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12923 of 2022

P.Mohanavalli ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Palani,
Dindigul District.

2.The Tahsildar,
Palani Taluk,
Dindigul District.

3.The Zonal Deputy Tahsildar,
Palani Taluk,
Dindigul District.

4.The District Registrar (Registration)
Dindigul Distirct,
Dindigul.

5.The Sub Registrar Joint-II (Registration)
Palani,
Dindigul District.

6.The State of Tamil Nadu
rep. by the Secretary to Government (Revenue Department),
Fort.St.George, Chennai.

7.The State of Tamil Nadu
represented by the Secretary to Government
(Commercial Tax and Registration Department)
Fort.St.George,
Chennai.
(R6 & R7 are *suo motu* impleaded vide order dated 25.07.2022)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 5 to pass orders granting transfer of patta in favour of the petitioner based on the application for patta transfer without reference to the provisions of Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 in respect of land in S.F.No.120/1A7 to an extent of 1.21.5 hectare, S.F.No.120/1A8 to an extent of 1.21.5 hectare, S.F.No.120/1A9 to an extent of 1.21.5 hectare and S.F.No. 120/1A10 to an extent of 1.21.5 hectare Chitharevu Village, Palani Taluk, Dindigul District covered by Patta No.651, 653 & 654 and to restore the guideline value of the patta lands, within a time framed to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.G.Sivaraja
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The property in question was the subject matter of the proceedings initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land)

Act, 1961. The land in question was assigned in favour of Easwari, Subasini and Sammundeeswari on 24.10.1998. As per the terms and conditions governing assignment, the lands could not have been alienated within 20 years. Even if the alienation was to take place after the prohibited period, consent from the jurisdictional Revenue Divisional Officer must be obtained.

3. The stand of the respondents is that in this case, the petitioner had purchased the assigned land in violation of the terms and conditions of the assignment and that is why, they have initiated the proceedings for cancelling the assignment itself. The respondents have filed a typed set of papers in which show cause notice dated 06.07.2022 has been enclosed.

4. The learned Government Advocate would state that the petitioner can as well participate in the proceedings and contest the matter. It is seen that the petitioner had not purchased the property in question from the original assignee. The original assignee had sold the property in favour of one Saravanan and Kungumraj on 23.06.2010. The said document was not only registered but patta was also issued in favour of the said purchaser who is none other than the vendor of the writ petitioner. The learned counsel appearing for the petitioner drew my attention to the decision of the Hon'ble Division Bench reported in

2010-5-L.W 289 (T.Tirumalai Gounder Vs. T.Periasamy). The Hon'ble Division Bench held that if the revenue authority had endorsed the transfer made by the assignee by effecting mutation, they cannot thereafter question the alienation.

5. In my view, the said decision clearly applies to the case on hand. The writ petitioner's situation can very well be understood. He genuinely thought that his vendor was the absolute owner of the property in question. The petitioner's vendor not only had a registered sale deed in her favour, but the revenue record also stood in her favour. The petitioner had thus been a bonafide purchaser for valuable consideration. If only the authorities had entered the property in question in the prohibited index, then, till the expiry of the 20 years period, the assignee could not have dealt with the property. For the failure on the part of the authorities, the petitioner cannot be made to suffer.

6. Respectfully following the ratio laid down in ***2010-5-L.W 289 (T.Tirumalai Gounder Vs. T.Periasamy)***, I direct the jurisdictional Tahsildhar to issue patta in favour of the writ petitioner. The necessary changes will also be made in the guideline register indicating the current market value. The show cause notice initiated for cancelling the assignment shall stand terminated.

7. It is seen that the Government of Tamil Nadu has been assigning lands so as to benefit the landless poor. The beneficiaries instead of retaining the land often choose to alienate them. Such alienations are clearly contrary to public policy and are also violative of the assignment terms and conditions. Such alienations will have to be prevented. It is possible to prevent them only by including the assigned lands in the prohibitory index. The registering authorities must be directed not to register such lands. The value of the assigned lands should be shown as zero. Only then, such alienation can be prevented. I expect the Government of Tamil Nadu to come out with a comprehensive policy in this regard so as to prevent alienation of the assigned lands before the expiry of the period and even thereafter, without consent from the competent authority.

8. The Writ Petition is allowed accordingly. No costs.

25.07.2022

Index : Yes / No
Internet : Yes/ No
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To

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Dindigul District.

G.R.SWAMINATHAN, J.

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