



W.P.No.21580 of 2016 and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21580, 21581, 21582, 21583, 21584, 21585, 21586 of 2016
and

W.M.P.Nos.18461, 18462, 18463, 18464, 18465, 18466, 18467, 18468,
18469, 18470, 18471, 18472, 18473, 18474, of 2016

[W.P.No.21580 of 2016
W.M.P.Nos.18461 & 18462 of 2016]

G.Ambika

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep by its Secretary,
Department of Revenue,
St. George Fort Chennai.
2. The District Collector,
Thiruvannamalai District,
Office of District Collector,
Vellore Road,
Thiruvannamalai-606 604
3. Thasildhar,
Thiruvannamalai District,
Thiruvannamalai-606 601.
4. Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Thiruvannamalai-606 601.

...Respondents



W.P.No.21580 of 2016 and batch

Prayer in W.P.No.21580 of 2016:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records pertaining to the order passed by the 2nd respondent bearing reference No. Na. Ka. A2/43118/2013 dated 18.4.2016 and quash the same as unconstitutional, arbitrary and against the law of natural justice.

For Petitioner in all W.Ps. : Mr.A.K.Raja Raman

For Respondents in all W.Ps. : Mr.T.Arun Kumar, AGP

COMMON ORDER

The writ on hand has been instituted questioning the validity of the order dated 18.04.2016, issued by the second respondent, cancelling the conditional assignment granted in favour of one Mr.Krishnamurthy, son of Mulaiyan.

2.The petitioners state that they have purchased the subject property by paying the sale consideration. Originally, the larger extent of the property to an extent of 0.10.0 hectares was granted by the Government to one Mr.Krishnamoorthy, S/o.Mulayan, in the year 1983, vide patta dated 30.06.1983. Conditional assignment was granted to the Scheduled Caste landless people. Mr.Krisnamoorthy subsequently sold the property to one



W.P.No.21580 of 2016 and batch

Dr.Chandran vide document No.1095/1986 and in turn Dr.Chandran

promoted the land into housing plots and sold them to the public at various point of time. It is contended that Mr.Chandran also belongs to the Scheduled Caste community. The sale was registered properly by paying the stamp duty. The petitioners purchased the housing plot from Dr.Chandran in the lay out formed by him. The petitioners state that they have purchased the housing plots in the lay out constituted by Dr.Chandran and thereafter, they are in possession of the property. While so, the second respondent District Collector called the petitioners for enquiry and the petitioners attended the enquiry and submitted the sale deeds and the relevant documents to establish their rights. Thereafter, the second respondent issued the impugned order dated 18.04.2016, cancelling the original assignment granted in favour of Mr.Krishnamoorthy. Thus the petitioners are constrained to move the present writ petition.

3.The learned counsel for the petitioners mainly contended that no show cause notice or opportunity was granted to the writ petitioners before issuing the impugned order and therefore, the order is in violation of the principles of Natural Justice. The petitioners are the bona fide purchasers and purchased the land from Dr.Chandran who formed lay out in the



W.P.No.21580 of 2016 and batch

subject property by purchasing the land from the original assignee Mr.Krishnamoorthy. Thus, there is no irregularity in respect of the purchase of the petitioners and therefore, the order impugned is liable to be set aside. The learned counsel for the petitioners reiterated that the petitioners have purchased the housing plot by investing their hard earned money and is in possession of the property and there is no irregularity even in respect of the sale made by the original assignee to Dr.Chandran since Dr.Chandran also belongs to the Scheduled Caste community.

4.The learned Additional Government Pleader appearing on behalf of the respondents raised an objection by stating that the petitioners are admittedly the subsequent purchasers and the vendors for the petitioners was the purchasers of the subject property from original assignee Mr.Krishnamoorthy. Therefore, the question of issuing show cause notice to the writ petitioners would not arise at all. The land was not assigned in favour of the petitioners and the Government was unaware of the subsequent sale made by the original assignee without the knowledge of the Government.



W.P.No.21580 of 2016 and batch

5.The land in Survey Nos.191/4 and 191/5 had been granted to one Mr.Krishnamoorthy under D.K.Patta no. 75/82 on 30.06.1983. The D.K.Patta issued to the said Krishnamoorthy, is a conditional patta, which shows that the land could not be alienated for a period of not less than 10 years. But the said Krishnamoorthy, S/o Mulaiyan had alienated the property to one Dr.Chandran under the registered sale deed dated 17.03.1986, within a period of three years and after the purchase, the said Chandran had plotted out the same into the house sites along with the other properties and had conveyed to the petitioners.

6.One Mr.Appadurai sent a representation seeking grant of land within the above survey Numbers and he filed the writ petition in W.P.No.5021 of 2015 and this Court directed the respondent to dispose of the representation. Thereafter, the second respondent had conducted an enquiry in detail as per the directions of the Court. It was found that the original assignee had violated the conditions laid down in the patta order and therefore, the same was cancelled by the second respondent after due and full fledged enquiry. The other land encroachers in the above survey numbers had also appeared for the enquiry and after conducting the full enquiry and perusal of the documents, the second respondent had passed



W.P.No.21580 of 2016 and batch

the orders and therefore, the Principles of Natural Justice has been followed scrupulously by the District collector.

7.Considering the arguments as advanced between the parties to the lis on hand, it is not in dispute that the land was originally assigned by the Government in favour of one Mr.Krishnamoorthy who was a landless poor person belonging to scheduled Caste community. It is further not in dispute that the conditional patta was granted imposing a condition that the assignee should not alienate the property for a period not less than 10 years. Since it is a conditional patta granted under the welfare scheme of the Government, the original assignee ought not to have alienated the property. In violation of the conditions imposed in the patta to the originally assignee, Mr.Krishnamoorthy had alienated the property to one Dr.Chandran. The said Dr.Chandran formed a layout and sold the property to the petitioners. Though the petitioners state that Dr.Chandran also belongs to the Scheduled Caste community, he cannot be considered as a landless poor person. If at all, Dr.Chandran is eligible, he should have approached the Government for grant of free patta under the Government welfare scheme. An illegality committed by the original assignee cannot be cured by merely stating that the purchaser is also a Scheduled Caste



W.P.No.21580 of 2016 and batch

person. Various conditions and criteria are prescribed for granting free patta to landless poor people. Government is competent to issue free patta and therefore, the assignee has to scrupulously follow the conditions imposed in the conditional patta and in the event of violation, the competent authorities are empowered to cancel the free patta granted.

8.An assignee allotted with free patta under the Government welfare scheme to protect his livelihood cannot alienate the property in violation of condition and in the event of permitting such violations, the very purpose and object of welfare schemes would be defeated. Such violators are depriving the other eligible landless poor persons to secure free patta under the welfare scheme. Therefore violations are to be viewed seriously, since free patta is granted from the public property and the beneficiaries are expected to honour the conditions in entirety, failing which, the competent authorities are duty bound to initiate action and cancel the free patta granted to such persons.

9.The contention of the petitioners that the Principles of Natural Justice has been violated deserves no merit consideration, since an elaborate enquiry was conducted by the District Collector by affording



W.P.No.21580 of 2016 and batch

opportunity to all the parties. The petitioners either themselves or through their representatives participated in the enquiry and submitted their documents. The District Collector found that the original assignee of free patta in violation of the conditions alienated the property in favour of one Dr.Chandran, who in turn formed lay out by converting the land as house sites and sold the plots in favour of the petitioners. It is a serious violation committed by the original assignee and the public property granted at free of cost for the benefit of the poor landless people at no circumstances be allowed to be misused or abused.

10.In the present case, the impugned order itself reveals that the petitioners have admitted the fact that they have purchased the property from Dr.Chandran who purchased the subject land from the original assignee Mr.Krishnamoorthy. Thus, the violations of free patta conditions are apparent and the District Collector is therefore justified in cancelling the free assigned patta granted in favour of Mr.Krishnamoorthy, S/o.Mulaiyan. Thus, the petitioners have not established even semblance of legal right for the purpose of interfering with the orders impugned and consequently, the order passed by the District Collector in proceeding dated 18.04.2016 stands confirmed.



W.P.No.21580 of 2016 and batch

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11. Accordingly, the writ petitions stand **dismissed**. No costs.

Consequently, connected miscellaneous petitions are closed.

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09.06.2023

Index : Yes

Speaking Order

Neutral Citation : Yes

To

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