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W.P.No.13158 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.13158 of 2018

and

W.M.P. Nos.15469 and 15470 of 2018

Vivek AL Sections,
Partnership firm rep. by its
Partner M/s.Multitek Agencies Private Ltd.,
Vs.

.. Petitioner

1. State of Tamil Nadu
Rep. By its Secretary,
Fort. St. George,
Chennai – 600 009.

2. Assistant Settlement Officer (North),
Chepauk,
Chennai.

3. Special Tahsildar,
Town Settlement,
Pallavaram,
Chennai – 600 043.

4. Sub Inspector of Survey
Pallavaram,
Chennai – 600 043.

5. Sakeena Begum

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue an order, a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in her proceedings dated 03.04.2018 bearing Rc. No.1941/2018 and quash the same and forbear the respondents, their men agents or anyone from in any manner sub-dividing the lands of the petitioner and allotting it to the 5th respondent.

For Petitioner : Mr.S. Mukunth
For Respondents : Mr.U. Baranidharan,
Addl. Govt. Pleader for R1 to R4
Mr.T.Saikrishnan
for M/s.Sai, Bharath & Ilan for R5

ORDER

This writ petition has been filed to call for the records of the 3rd respondent vide proceedings dated 03.04.2018 bearing Rc. No.1941/2018 and quash the same and consequently forbear the official respondents, their men agents or anyone from in any manner sub-dividing the lands of the petitioner and allotting it to the 5th respondent.

2. It is stated that originally T. Mohammed Ibrahim was the owner of 4.33 acres of land in S.F. No.395 and subsequently, the same has been purchased by the petitioner. While so, the 5th respondent, who is the



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legal heir of T. Mohammed Ibrahim has made an application before the 3rd respondent for issuance of patta and thereafter, revenue records was mutated in her favour. It is the grievance of the petitioner that the subject property belongs to the petitioner, whereas, it has been wrongly mutated in favour of the 5th respondent. In such circumstances, the 3rd respondent has passed the impugned order, dated 03.04.2018, which is in favour of the 5th respondent. Aggrieved over the same, this writ petition has been filed.

3. Learned counsel for the petitioner submits that the petitioner has purchased the entire extent of 4.33 acres of subject properties by way of separate Sale deeds, which were registered as Document Nos.864 of 1960, 1037 of 1960, 3667 of 1963 and 1645 of 1963. He also submitted that without affording an opportunity of personal hearing to the petitioner, the impugned order has been passed by the 3rd respondent, which is a mere violation of principles of natural justice. Hence, he submits that passing of the aforesaid impugned order is unsustainable and therefore, he prays for issuance of appropriate directions to the respondents in the above regard.

4. Denying the contentions of the petitioner, Mr.U. Baranidharan, learned Additional Government Pleader appearing for the respondents 1 to 4



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submitted that as per revenue records, the said lands in question earlier stood in the name of Mohammed Ibrahim and after his death, based on the application submitted by the 5th respondent, the said records have been mutated to the legal heirs of Mohammed Ibrahim. He further submitted that after conducting enquiry, the 3rd respondent has passed the order dated 03.04.2018 and therefore, it is valid and legally sustainable one. In view of the above, it calls for no interference of this Court and hence, he prays for dismissal of this writ petition.

5. Mr.T. Saikrishnan, learned counsel for the 5th respondent submitted that even the very purchase of the said properties is disputed by the 5th respondent and there is no rectification entries found in the revenue records. He further stated that the petitioner has created forged documents in order to grab the properties of T. Mohammed Ibrahim. Hence, he vehemently opposes for the quashment of the impugned order and prays for dismissal of this writ petition.

6. Heard the submissions made by the learned counsel on either



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side and perused the materials placed on record.

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7. On a bare perusal of records, it reveals that though it is claimed by the petitioner that subject properties have been purchased by him from T. Mohammed Ibrahim, who is the father of the 5th respondent by way of separate sale Deeds, there are no rectification entries found in the revenue register in favour of the petitioner. Further, it is seen that the impugned order has been passed without affording due opportunity of personal hearing to the petitioner, which is a gross violation of principles of natural justice and unsustainable. Such being the case, the impugned order suffers the vice of illegality and cannot be sustained and therefore, it is liable to be quashed.

8. For the reasons aforesaid, the impugned order, dated 03.04.2018 is hereby quashed and the matter is remanded back to the 3rd respondent for fresh consideration. The 3rd respondent shall pass final orders on merits and in accordance with law, within eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner as well as the 5th respondent and any other aggrieved parties.



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9. In the result, the writ petition stands allowed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

05.04.2023

Speaking/Non Speaking order

Index : Yes/No

Internet: Yes/No

Neutral citation : Yes / No

vsi2

To

1. The Secretary,
State of Tamil Nadu
Fort. St. George,
Chennai – 600 009.

2. The Assistant Settlement Officer (North),
Chepauk,
Chennai.

3. The Special Tahsildar,
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