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W.P.No.12168 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12168 of 2014 and
M.P.Nos.2 & 3 of 2014

Nithiyadevi

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Petitioner

VS

1. Union of India
U.T of Puducherry
Rep. by the Secretary to Government
Department of Revenue and Disaster Management
Government of Puducherry, Puducherry.
2. The District Collector
Saram, Puducherry.
3. The Tahsildar
Taluk Office, Puducherry.
4. The Senior Superintendent of Police (L&O)
Puducherry.
5. The Station House Officer
Odiansalai Police Station
Puducherry.
6. Antoniette Yvonne Victoria Dambrun
7. Marie Eugenie Vanarodja Dambrun
8. Marie Joseph Adrien Dambrun
9. Marie Antoinette Leduine Burgues
10. Marie Philomene Julienne Tschanturia
11. Marie Franscique Xavier Dambrun

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for



W.P.No.12168 of 2014

issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order bearing No.22/TOP/TAH/LAND GRAB/PF/2014, dated 11.02.2014 on the file of the third respondent and to quash the same and consequently, forbear the respondents from interfering with her peaceful possession and enjoyment of her western portion of the property bearing T.S.No.244 & 245 & R.S.No.239 pt. And Door No.18, Kandappa Mudali Street (& Madha Koil Street), Puducherry – 605 001, measuring 925 Sq.ft and the three storeyed building constructed by her thereon, in any manner.

For Petitioner : Mr.T.P.Manoharan
Senior Counsel
for Mr.T.M.Naveen

For Respondents : Mrs.G.D.Jearamy
Govt. Advocate (Puducherry)
for R1 to R5

Mrs.P.Veena Suresh
for R6 to R11

ORDER

The writ petition has been instituted challenging the order dated 11.02.2014 passed by the Tahsildar under the Land Grabbing petition filed by Thiru.Marie Joseph Adrien Dambrun @ Tambrun in respect of the property situated in T.S.No.244 & 245 of Ward-D, Block No.16, Puducherry Revenue Village.

2. The right of title / ownership in respect of the property has already been crystalized in view of the fact that the matter went up to the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India



confirmed the ownership by stating that Thiru.Dambrun Paulin is the title holder and Thiru.Rollando Joseph is only a tenant. The tenant Thiru.Rollando Joseph settled the property belonging to Thiru.Dambrun Paulin in favour of his son and the son of the said Rollando Joseph / tenant sold the property in favour of the petitioner. The civil right in respect of the property has been upheld by the Hon'ble Supreme Court of India in favour of the said Thiru.Dambrun Paulin and thus, he became the absolute owner of the property as of now.

3. There was a prolonged dispute between the petitioner's vendor's father and his landlord. The petitioner's vendor's father, who is only a tenant, did not have the title. One Smt.S.Santhi, who was also a purchaser of a portion of the property filed W.P.No.5723 of 2014 challenging the order passed by the Tahsildar in proceedings dated 11.02.2014 and the said writ petition was dismissed by this Court on 05.01.2016. Even in the said order, this Court made a finding that Thiru.Dambrun Paulin is the title holder as per the judgment of the Hon'ble Supreme Court of India. Thus, the issues regarding the title between the parties are no more *res integra*.



W.P.No.12168 of 2014

WEB COPY

therefore, the petitioner has no right over the property as against the owner, who established his right up to the Apex Court of India. Pertinently, a suit was instituted by the original owner Thiru.Dambrun Paulin in O.S.No.945 of 1982, seeking eviction of the tenant Thiru.Rollando Joseph. The suit was decreed in favour of the plaintiff and the eviction was ordered by the Additional District Munsif Court at Puducherry. The tenant filed an appeal suit in A.S.No.25 of 1984 before the Additional District Court at Puducherry and the said appeal suit was allowed in favour of the tenant, setting aside the judgment and decree passed in the suit. The owner of the property, Thiru.Dambrun Paulin filed a second appeal in S.A.No.144 of 1998 before the High Court of Madras and vide judgment and decree dated 18.08.2000, the judgment and decree passed in the original suit was restored by the High Court in the second appeal.

5. The tenant Thiru.Rollando Joseph filed a Special Leave Petition before the Hon'ble Supreme Court of India in C.A.No.5384 of 2017 and the Apex Court, vide order dated 23.11.2005, dismissed the said civil appeal confirming the judgment and decree dated 11.11.1983, passed by the Trial Court. Thus, the title regarding the property stays confirmed in the name of Thiru.Dambrun Paulin and the portion of the property sold in favour of the father of the petitioner was



W.P.No.12168 of 2014

found to be illegal.

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6. The original owner instituted action for land grabbing, since the original owner raised a ground that the sale was concluded with the collusion of the petitioner and they have also committed offence of land grabbing. A petition was filed before the competent authority and the Tahsildar adjudicated the issues elaborately by affording opportunity to all the parties. The extract of the settlement register was considered by the Tahsildar and field inspection was conducted by the authorities to ascertain the topography of the property. An enquiry was conducted by affording opportunity to the parties and the findings made by the Tahsildar is based on the judgment of the Hon'ble Supreme Court of India that the said Thiru.Dambrun Paulin is the title holder and Thiru.Rollando Joseph is only a tenant. The findings are extracted hereunder:

“8.4. Thus, in finality it is concluded that it is a fit case of land grabbing by Thiru.Rolland Kichore Aliberty Ashokan S/o Rollando Joseph, both the counter petitioners and any other related persons. Hence, it is reported that the District Authority may initiate action to direct the Police Department to initiate action under Section 415-Cheating; Section 420 – Cheating and dishonestly inducing delivery of



WEB COPY



W.P.No.12168 of 2014

property; Section 468- Forgery for purpose of cheating; Section 471- Using as genuine a forged document and any other Section under the Chapter XVII of Offences Relating to Documents and to Property Marks after conduct of discreet enquiry by the Police Department. Furthermore, it is reported that based on the judgment and decree of the Supreme Court of India in C.A.No.5384 of 2001 dated 23.11.2005 which clears that Thiru.Dambrun Paulin as the title holder and Thiru.Rollando Joseph as only a tenant, the petitioner and five others are in the eye of law at liberty to take possession of their property.”

7. The learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that the Tahsildar is incompetent to decide the title of the immovable property. It is contended that the petitioner is the purchaser and therefore, the petitioner has not committed any illegality. The petitioner was not aware of these factors and thus, the writ petition is to be allowed. The learned Senior Counsel further submitted that the petitioner, who purchased the property obtained building plan permission from the legal authorities and constructed the building. Therefore, in the event of not considering the writ petition, great prejudice would be caused to the writ petitioner.



8. The learned counsel appearing on behalf of the private respondents opposed the said contention by stating that the writ petitioner's father purchased the property during the pendency of the litigation and therefore, he has no right to claim possession or otherwise. She would further submit that the petitioner's vendor's father was a tenant and the petitioner purchased from the person who has no valid title over the property. Thus, the respondents instituted proceedings for land grabbing and more so, the Hon'ble Supreme Court of India passed an order stating that the tenant Thiru.Rollando Joseph has to vacate the premises on or before 31.08.2006. Though the Hon'ble Supreme Court has passed an order directing the tenant to vacate the premises before 31.08.2006, the subsequent purchaser has no right over the property and is in illegal occupation and thus, they have indulged in land grabbing and the consequential order passed by the Tahsildar is in light of the directions issued by the Hon'ble Supreme Court of India and therefore, the writ petition is to be rejected.

9. As rightly pointed out by the learned Senior Counsel for the petitioner, the revenue authorities are incompetent to determine the title or ownership in respect of the property. However, if the documents *prima facie* establishes the title or the Court orders obtained in this regard, then,



W.P.No.12168 of 2014

the revenue authorities are empowered to deal with the petitions filed for land grabbing or for issuance of patta or revenue records or otherwise.

While considering these arguments, the authorities are competent to consider the nature of the documents and orders passed by the Courts and take a decision on merits and in accordance with law.

10. In the present case, the land grabbing petition was filed by the private respondents and the Tahsildar adjudicated the issues elaborately by affording opportunity to all the parties and documents were considered. Finally, the Tahsildar found that the petitioner is an unauthorized occupant and has no title over the property. But, the Tahsildar found that the private respondents are entitled to the property, since the Hon'ble Supreme Court of India held that Thiru.Dambrun Paulin is the title holder of the subject property and Thiru.Rollando Joseph is only a tenant. Thus, the adjudication cannot be found fault with since the Tahsildar has not declared title, but he has ascertained the title based on the orders passed by the Apex Court of India.

11. More so, the Hon'ble Supreme Court of India has directed the tenant to evict the premises on or before 31.08.2006. Almost 16 years lapsed. Till today, the owner of the property is unable to take possession of



W.P.No.12168 of 2014

the petitioner has to initiate all appropriate actions against his own vendor and such action would not affect the right of the original owner, who had already established his right before the Hon'ble Supreme Court of India. The right to claim possession, which was their relief claimed against the father of the petitioner, is unconnected with the eviction to be made against the illegal occupants / petitioner. Thus, the petitioner is not entitled for any relief from the hands of this Court.

14. Considering the fact that the petitioner is in continuous possession despite the orders of the Hon'ble Supreme Court of India, this Court is not inclined to grant any further leniency in evicting the petitioner, since the Hon'ble Supreme Court of India passed an order directing the tenant to vacate the premises on or before 31.08.2006. Accordingly, the petitioner is directed to vacate the premises and handover the vacant possession to the respondents 6 to 11 within a period of one month from the date of receipt of a copy of this order.

15. In the event of not vacating the premises within a period of one month, then, the respondents 1 to 5 are directed to evict the petitioner with the assistance of the Police and handover the vacant possession to the respondents 6 to 11 within a period of four weeks thereafter.



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W.P.No.12168 of 2014

16. Accordingly, the writ petition stands dismissed with the liberty to the petitioner to sue his vendor for redressal of his grievances in the manner known to law. There will be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

Index : Yes/No
Neutral Citation : Yes/No

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W.P.No.12168 of 2014

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WEB COPY



W.P.No.12168 of 2014

S.M. SUBRAMANIAM, J.

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W.P.No.12168 of 2014

21.04.2023