



W.P.No.23885 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.No.23885 of 2023
and W.M.P.No.23885 of 2023

G.Srinivasan

...Petitioner

Vs.

- 1.The District Collector,
Vellore District,
Vellore.
- 2.The Revenue Divisional Officer,
Vellore District,
Vellore.
- 3.The Tahsildar,
Anaikattu Taluk,
Anaikattu.
- 4.The Revenue Inspector,
Office of Revenue Inspector,
'O' Rajapalayam Road,
Odugathur,
Vellore District.
- 5.The Village Administrative Officer,
Office of Revenue Inspector,
'O' Rajapalayam Road,



W.P.No.23885 of 2023

Odugathur,
Vellore District.

6.The Town Panchayat Councilor,
Ward No.9,
Latha
W/o Boominathan,
Odugathur Town Panchayat,
Odugathur.

7.The President
Odugathur Town Panchayat
Town Panchayat Office,
Odugathur.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents not to take possession of petitioner's land situated Grammanatham New S.No.294/3, Old S.No.294, 6 Ward Muthukumaran Hill Main Road, Block No.21, 'O' Rajapalayam Village with an extent of 0.50 sq. meter, without due process of law.

For Petitioner : Mr.D.Rajagopal

For Respondents 1 to 5 : Mr.R.U.Dinesh Rajkumar
Government Advocate

For Respondents 6 & 7 : Mr.R.P.Murugan Raja
Standing Counsel

ORDER

The petitioner herein seeks a direction to the respondents not to take possession of his land situated at Grammanatham New S.No.294/3, Old



W.P.No.23885 of 2023

S.No.294, 6 Ward Muthukumaran Hill Main Road, Block No.21, 'O'

Rajapalayam Village with an extent of 0.50 sq. meter, without due process of law.

2. It is the case of the petitioner that the above said land was assigned in favour of the petitioner's vendor P.Rajini, Son of Porkodi on 04.10.2021. The petitioner herein purchased the above said property from the said P.Rajini under a registered Sale Deed dated 04.10.2021, vide Document No.2160/2022, on the file of Sub Registrar, Odugathur. The petitioner also filed an application for transfer of patta in his name and in the revenue records of the respondents and the same is pending. In these circumstances, the respondents 3 to 5 made an attempt to trespass into the petitioner's land without due process of law and tried to take possession of the property for the purpose of establishing a gymnasium. Hence, the petitioner submitted a representation to the 1st respondent, requesting him to direct the other respondents not to take possession of his property. The petitioner also issued a legal notice on 15.07.2023 in this regard calling upon the respondents not to interfere with his peaceful possession of the property. Since the petitioner's possession is threatened by the respondents without following any due process of law, the petitioner has come before this Court.



W.P.No.23885 of 2023

WEB COPY

3.The learned Government Advocate appearing for the respondents 1 to 5, by referring to the counter affidavit filed by the 3rd respondent submitted that even though the above mentioned property was assigned in favour of one P.Rajini as claimed by the petitioner, even now, the same is classified as Government Poromboke in the revenue records . The revenue records are not yet mutated in favour of said P.Rajini. Therefore, the petitioner cannot claim any right over the property.

4.The patta issued in favour of the petitioner's vendor P.Rajini is produced in the typed set of papers filed by the petitioner. The fact of issuance of patta in favour of the petitioner's vendor P.Rajini is also admitted by the respondents. When the property was assigned in favour of said P.Rajini and the same was sold by him in favour of petitioner by way of a registered document, merely because no mutation had taken place in favour of petitioner's vendor in the revenue records, the respondents are not entitled to claim that the petitioner will not derive any right over the property. It is settled law that revenue records will not confer any title. When the property is assigned in favour of petitioner's vendor and he sold the same to the petitioner



W.P.No.23885 of 2023

by way of registered sale deed, the petitioner is entitled to assert his right over the said property. The stand taken by the respondents that merely because property stands as Government Poromboke land in the revenue records, the petitioner cannot claim any rights over the same, is not tenable in law.

5.The learned counsel appearing for the respondents also submitted that the sale in favour of the petitioner is against the conditions of assignment. A perusal of conditions of assignment mentioned in the patta issued in favour of petitioner's vendor Rajini would reveal that sale in favour of Indian citizens is permitted and only in case where sale is in favour of non citizens, sanction from the Government is required as per Clause 7 of the conditions mentioned in the patta. Therefore, the said contention of the learned Government Advocate is also not acceptable by this Court.

6.The petitioner herein seeks mandamus directing the respondents not to take possession of the above mentioned property without due process of law. Even the original owner cannot take law into his hand and disturb the possession of a person, who is in actual possession of the property, without following due process of law. The said position has been declared by the



W.P.No.23885 of 2023

Hon'ble Apex Court in the case of ***Rame Gowda (D) by Lrs. vs. M.Varadappa Naidu (D) by Lrs, and others*** in Civil Appeal No.7662 of 2003, dated 15.12.2003, reported in ***(2004) 1 SCC 769***.

7.In view of the limited prayer made by the petitioner that his possession shall not be disturbed except by due process of law and also the fact that the petitioner has succeeded in showing his semblance of right over the property by registered Sale Deed in his favour and assignment patta issued in favour of his vendor, this Court is inclined to allow this writ petition by directing the respondents not to disturb the petitioner's possession of the property except by due process of law.

8.With the above direction, the writ petition stands allowed. No costs.

25.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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W.P.No.23885 of 2023

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