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W.P. No.30161 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.30161 of 2023

Iris Warehousing and Storages Pvt. Ltd.
Represented by its Director M.Balamurugan
Having Office at No.36, Old No.2/1,
Diwan Bashyam Street,
West Saidapet,
Chennai – 600 015

... Petitioner

Vs.

1. Commissioner of Land Administration
Ezhilagam, Kamarajar Promenade,
PWD Estate, Chepauk,
Chennai – 600 005
2. District Collector
Chennai
3. District Revenue Officer
Chennai
4. The Revenue Divisional Officer
Chennai North
5. The Tahsildar
Madavaram Taluk
Chennai
6. Annai J.J. Nagar Kudiyruppor



Nalaazhvu Sangam,
Rep. by its President Mr.B.Edwin
Kathirvedu Village, Ambattur Taluk,
Thiruvallur District

7. S.Saraswathy

8. K.S.Sabarinath

9. K.S.Dhuvaraganath

10. K.S.Regadevi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for a writ of certiorarified mandamus to call for the records of the impugned order in Proc. No.F3/4090103/2023 dated 10.09.2023 on the file of the 1st respondent and quash the same as illegal and without jurisdiction and consequently direct the 5th respondent Tahsildar to issue patta in the name of the petitioner to the extent of 1 acre in Survey No.4/1, Kathirvedu Village, Ambattur Taluk.

For Petitioner : Mr.T.M.Mano

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.Yogesh Kannadasan
Special Government Pleader
for R1 to R5

ORDER



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This writ petition is filed seeking a writ of certiorarified mandamus to call for records of the impugned order in proceedings No.F3/4090103/2023 dated 10.09.2023 on the file of the 1st respondent and quash the same as illegal and without jurisdiction and consequently direct the 5th respondent/ Tahisldar to issue patta in the name of the petitioner to the extent of 1 Acre in Survey No.4/1, Kathirvedu Village, Ambattur Taluk.

2. The case of the petitioner is that the petitioner is the absolute owner of an extent of 1 acre i.e. 43,600 Sq.ft. in S.No.4/B3, Kathirvedu Village, Madhavaram Taluk. The petitioner purchased the said property under the registered sale deed dated 20.10.2010 in Doc. No.9433/2010 and have been in possession and enjoyment of the said land in dispute. The petitioner is an innocent purchaser for a valuable consideration who purchased the said property after scrutinizing the documents including the Government communications and all the relevant documents. While so, the petitioner was shocked to receive a notice from the 1st respondent pursuant to an order passed by this Court in W.P.No.24160/2012 dated 18.11.2022. In the said writ petition, the petitioner was not shown as a party. The petitioner has title and interest over the said property even prior to filing of the said writ petition.



Even then, the writ petitioner was not added as a party in the earlier writ petition wherein, this Court had directed the 1st respondent herein to independently decide the validity of the assignment and title of the M/s.Sreepathy Chemicals since the said M/s.Sreepathy Chemicals is the predecessor in title of the property of the petitioner. In the said writ petition suo motu enquiry was ordered to be taken up by the 1st respondent and the 1st respondent issued notice to the petitioner after ascertaining that the petitioner is a necessary party to the dispute. On receipt of the notice, the petitioner placed his materials before the 1st respondent. Thereafter, the 1st respondent passed the impugned order dated 10.09.2023 in proceedings No.F3/4090103/2023 stating that the assignment granted in favour of M/s.Sreepathy Chemicals vide G.O.Ms.No.637 dated 23.03.1967 cannot be fructified and the subsequent owners who acquired the property through transactions involving the invalid title may not have legal rights or valid claims over the property and that the petitioner has no right to claim patta in his name. The 1st respondent without considering the legal aspects raised by the petitioner, rejected the petitioner's submissions and without giving any reasons, dismissed the prayer sought for by the petitioner. Therefore, the petitioner was forced to file the present writ petition challenging the order



passed by the 1st respondent dated 10.09.2023.

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3. The contention of the petitioner is that the land in question along with a larger extent was assigned to M/s.Sreepathy Chemicals in the year of 1967, and M/s.Sreepathy Chemicals was in possession of the said property for 41 years. M/s.Sreepathy Chemicals though remitted a sum of Rs.6,410/-, failed to remit the balance amount of Rs.27,600/- from the date of issuance of Government Order i.e. 23.03.1967 till 18.09.2008. However, they remitted the balance amount and the assignment order was issued in the year 2008. Subsequently, the petitioner purchased one acre land under the registered sale deed dated 20.10.2010 and have been in possession of the property since then. The petitioner is an innocent purchaser who purchased the property for valid consideration only after verifying the documents of title and after verifying the revenue records which were mutated in favour of the assignee and the vendor. The nature of the land was never changed by the purchasers even after the transfer and continued to be used for industrial purpose. Till date, the land is in possession of the petitioner and utilized for parking industrial vehicles and is unable to construct or expand due to non issuance of patta. The assignment order was passed in the year 2008 only after the



revenue authorities convinced that the assignee was in possession of the property for 41 years and then patta was effected in favour of the assignee and to the subsequent purchaser one V.G.Rajendran. The assignment which is the subject matter of challenge, is made in the year 2008 after receipt of the entire consideration by the revenue authorities. Therefore, no assignment can be set aside on the ground that the transfer was made prior to the assignment and the same was ratified by the revenue authorities by issuing patta. The prior permission under the RSO 15(3)(c) may not arise since the petitioner is entitled to patta as per the sale deed dated 20.10.2010.

4. Heard Mr.T.M.Mano, learned counsel appearing for the petitioner and Mr.J.Ravindran, Additional Advocate General, assisted by Mr.Yogesh Kannadasan, Special Government Pleader, appearing for the respondents 1 to 5 and perused the materials available on record.

5. The subject matter of property with larger extent is originally assigned to M/s.Sreepathy Chemicals for industrial purpose. Though the property was originally assigned for industrial purpose, they had not paid the entire amount. They had only paid Rs.6,410/- failed to remit the balance amount of Rs.27,600/-. The said assignment order was dated 23.03.1967.



However, till 18.09.2008, they did not pay the balance amount. The petitioner has also not utilized the said land for industrial purpose. M/s.Sreepathy Chemicals, without having any valid orders issued by the competent authority for the said 4.00 acres in S.No.4/1, pursuant to the orders issued in G.O.Ms.No.637 dated 23.07.1967, executed power of attorney in favour of one Deva Jawahar in respect of the land measuring 1.00 acre in S.No.4/1 classified as village site Poramboke through a registered document No.732/2007 on 16.02.2007. Further, they also executed another power of attorney through registered document No.579/2007 on 09.02.2007 in favour of one Parthiban for an extent of 0.55 acres in S.No.4/1. Subsequently, the said Deva Jawahar, the holder of Power of attorney vide document No.732/2007, sold the 1.00 acre land in S.No.4/1 to one V.G.Rajendran through registered sale deed vide document No.13564/2007 dated 05.09.2007 for a sale consideration of Rs.1,11,18,000/-. The said Parthiban, holder of Power of Attorney vide document No.579/2007, had also sold the extent of 0.55 acre in S.No.4/1 to Deva Jawahar and VG Rajendran through registered sale deed in document No.1658/2007 dated 13.02.2007 for a sale consideration of Rs.55,15,400/-. At the time of registration of the powers of attorney dated 09.02.2007 and 16.02.2007 and the sale deed dated 13.02.2007 and 05.09.2007, the ownership to the extent of 1.00 acre and



0.55 acre in S.No.4/1 involved in the above registered documents were exclusively vested with the Government and the said extent of 1.55 acre in S.No.4/1 was not at all conveyed or assigned to M/s.Sreepathy Chemicals by the competent revenue authority pursuant to G.O.Ms.No. 637, Revenue Department dated 23.03.1967, since the M/s.Sreepathy Chemicals had remitted only a sum of Rs.6,410/- at the time of assignment and failed to remit the balance amount of Rs.27,600/- from the date of issuance of Government Order i.e. 23.03.1967 till 18.09.2008. Only in the year of 2008, they remitted the balance amount.

6. Therefore, the officer who passed the order has no authority. Further, whether the officer has got any valid power to pass such an order without getting permission of the Government is also a matter of evidence. The fact remains that even prior to the passing of assignment order dated 18.09.2008, M/s.Sreepathy Chemicals was not in possession of the entire property.

7. Admittedly, the members in the W.P. No.24160 of 2012 had occupied and in possession of the property and M/s.Sreepathy Chemicals was not in possession of the property. Even before the issuance of assignment order, they executed power of attorney and also sold the property in the year



2007 itself. When they got the absolute assignment order dated 18.09.2008, they had already sold a portion of the property and this writ petitioner purchased the property from the subsequent purchaser of M/s.Sreepathy Chemicals. M/s.Sreepathy Chemicals suppressing the material facts that they were not in possession of the property and did not use the property for industrial purpose, filed the writ petition in the year 2006 and got the order for remitting balance amount and got the assignment. However, at the time of filing the writ petition in the year 2006, the M/s.Sreepathy Chemicals was not in possession of the property. Even pending assignment, they executed powers of attorney and sold the property through the powers of attorney in year 2007 suppressing the fact that they had to remit the balance amount for obtaining the assignment order, which was obtained only on 18.09.2008. Therefore, the petitioner's vendor has no better title to convey the property in the year 2007.

8. Whether the petitioner has got right, whether his predecessor has got title, whether M/s.Sreepathy Chemicals was in possession of the property and was utilizing the property for industrial purpose for which it was originally assigned, whether the official order passed was a common order, are all matter of evidence. Whether the petitioner has got better title, whether the petitioner is in possession of the property are also matter of evidence.



Therefore, without ascertaining the same, issuance of patta cannot be accepted. The subject matter involved in this writ petition cannot be decided by a writ Court.

9. This Court does not find any perversity in the impugned order passed by the 1st respondent. Therefore, there is no merit in the writ petition.

10. Accordingly, the writ petition is dismissed. No costs. The petitioner is at liberty to work out its remedy in the manner known to law.

18.10.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

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2. District Collector
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P.VELMURUGAN. J.

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