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WP No.13861 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-07-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.13861 of 2017

And

WMP Nos.15046 and 15047 of 2017

Ms.Pooja Bhatt

... Petitioner

Vs.

1.The Collector of Nilgiris,
Ootacamend.

2.The Revenue Divisional Officer,
Coonoor.

3.The Tahsildar,
Kothagiri Taluk.

4.P.Kuppan (Deceased)

5.K.Subammal

6.K.Palanisamy

7.K.Murukesh

8.P.Rajammal



9.K.Chandran

[R-5 to R-9 substituted as LR's of deceased fourth respondent vide order of Court dated 18.11.2021 made in WMP No.4170 of 2020 in WP No. 13861 of 2017]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records connected with the order dated 21.03.2016 made in RCA No.A3/707/2015 passed by the third respondent and quash the same.

For Petitioner : Mr.H.Karthik Seshadri for
M/s.Iyer and Thomas

For Respondents-1 to 3 : Mr.C.Jayaprakash,
Government Advocate.

For Respondent-4 : Died Steps Taken

For Respondents-5 to 9 : Mr.A.Immanuel

ORDER

The order passed by the third respondent-Tahsildar, Kothagiri in proceedings dated 21.03.2016, is under challenge in the present writ



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2. The petitioner states that she is the Movie Producer and Actress based out of Mumbai. She had purchased a piece of property measuring about 26.12 cents in Survey No.578/10 in Jagatha Village, Nilgiris District for a valuable consideration. The Sale Deed was registered under Document No.1340/1999 in the Office of the Sub Registrar, Coonoor.

3. The petitioner states that the fourth respondent clandestinely managed to get his name included in chitta in respect of RS No.645/9 corresponding to Survey No.578/10.

4. The Revenue Authorities realised their mistakes and removed his name from the records. The fourth respondent subsequently filed complaint that he is the Original Assignee of the subject property and he had not transacted the subject property. Thereafter the fourth respondent filed WP No.37815 of 2015 and this Court issued direction to the Authorities to consider the application submitted by the fourth respondent to conduct an enquiry and pass appropriate orders.



5. Pursuant to the directions issued by this Court, the Tahsildar, Kothagiri issued notice to the parties and the respondents 4 to 9 were represented through one Mr.K.Rajkumar, Advocate at Coonoor, whose detailed address is also found in the impugned order.

6. The learned counsel for the petitioner mainly contended that no notice was issued to the writ petitioner nor she has authorised any Lawyer to represent her case before the Tahsildar, Coonoor. That apart, the petitioner is a bona fide purchaser of the subject property for sale consideration and therefore, her interest is to be protected.

7. It is contended that there is a condition not to alienate the property on completion of 10 years from the date of alienation and more-so, it is not clearly stated that the land cannot be sold to 'Non Depressed Class People'.

8. In view of the facts, the case of the petitioner is to be considered and based on the Sale Deed executed by the Original Assignee



in favour of the writ petitioner.

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9. The learned counsel appearing on behalf of the respondents 5 to 9 objected the contentions raised on behalf of the petitioner by stating that the Sale Deed in favour of the writ petitioner was fraudulently executed. The fourth respondent Mr.P.Kuppan was the Original Assignee and respondents 5 to 9 are the legal heirs of the Original Assignee Mr.P.Kuppan. Respondents 5 to 9 belong to Scheduled Caste Community and as per the assignment condition, even the father of the respondents 5 to 9 is not empowered to sell the property to any 'Non Depressed Class People'.

10. In view of the fact that the sale was fraudulent, respondents 5 to 9 have already proposed to initiate action challenging the same.

11. The learned Government Advocate appearing on behalf of the official respondents 1 to 3 relying on the counter had stated that as per the Collector's proceedings dated 09.08.1978 an extent of one acre of land was assigned to one Mr.P.Kuppan (fourth respondent herein), S/o.Ponnan in



old Survey No.578/10 of Jagathala Village of Kothagiri Taluk, Nilgiris District as conditional assignment.

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12. As per the condition No.23 laid down in the assignment, the Assignee has no right to sell the Government land to other Caste and it reads as under:-

“If the land is alienated or it is attached and sold by any legal process it shall be liable to resumption by the Collector or by any Officer authorised by him without payment of compensation whatever”.

13. Pertinently, the Government land assigned to the 'Depressed Class' should be cultivated by the Assignee himself or the members of his family or with hired labour or both. If at all any violations are noticed, the Government Authorities are empowered to cancel the said assignment.

14. The very purpose and object of the assignment of land to the 'Depressed Class People' is that the Government has to ensure and



protect their livelihood. Therefore, they are restrained from alienating the property in violation of the conditions as well as the purpose and the object of such assignments given at the cost of the public.

15. Contrary to the assignment conditions, the Original Assignee Mr.P.Kuppan has executed an unregistered Power of Attorney Deed to one Thiru C.O.Subramani, S/o.Othimalai Gounder on 07.10.1986. Based upon the said Power of Attorney Deed, the said Mr.C.O.Subramani sold the said land measuring 1.00 acre comprised in Survey No.578/10, Jegathala Village, Kothagiri Taluk, Nilgiris District to one Mr.C.O.Ramasamy, S/o.Othimalai Gounder by Document No.1305/1988, dated 03.10.1988, which was registered on 07.11.1988. Thereafter Mr.C.O.Ramasamy and three others sold the property to Mr.Rajan R.Srinivasan, who in turn sold the land to the petitioner (Ms.Pooja Bhatt), P.Aravinthdevi and Kamesh V.Sivakumar under Document Nos.1340/99, 1825/99, 1828/99 and 2147/2003 respectively.

16. The third respondent states that as per Revenue Standing Order Volume I, Section 12(2) and 12(3), Mr.P.Kuppan-fourth respondent



herein, S/o. Ponnan had violated the conditions of patta. Thus the land comprised in old Survey No.578/10 corresponding to Re-survey No.645/9 of Jegathala Village, Kothagiri Taluk, Nilgiris District should be resumed back to the Government.

17. Accordingly, the third respondent passed an interim order deleting all the names from the old Survey No.578/10, R.S.No.645/9 in the Village and Taluk accounts and restored the said land as Government land, which is classified as 'Tharisu'.

18. Thus it seems that, Mr.P.Kuppan was the Original Assignee of the Government land to an extent of one acre. Considering the fact that he belongs to Scheduled Caste Community and landless poor. In order to protect the livelihood, the Government land was assigned with conditions. He executed the Power of Attorney from whom several subsequent sales were effected. Respondents 5 to 9 are the legal heirs of the Original Assignee, who all are eligible to enjoy the Government assigned lands and cultivate the same if they are otherwise eligible. The sale seems to be violative of the assignment conditions. Since such Government lands



assigned in favour of the 'Depressed Class People', the same cannot be sold to other Community people, which would defeat the very purpose and object of the Scheme of the assignment of Government lands at free of cost.

19. The respondents 5 to 9 plead before this Court that the sale was made fraudulently and their very purpose is to initiate further actions. Equally, the petitioner is also entitled to initiate action if she was misled by her vendor or any other person in the matter of sale of the subject property.

20. With reference to the impugned order, if any Lawyer has represented the case of the writ petitioner without any authorisation or vakalat, the aggrieved person is entitled to initiate action against the said Lawyer in the manner known to law.

21. At the outset, the petitioner is at liberty to initiate all appropriate actions against her vendor or the person who represented her case without any authorisation or otherwise.



22. Pertinently, the Government ordered assignment of land in favour of the 'Depressed Class People' is no way connected to the petitioner. There is no relationship between the Government and the writ petitioner in the matter of assignment of land or otherwise. Thus, the petitioner cannot seek any relief against the Government nor the subsequent sale made between the private parties are not binding on the Government.

23. The Government has rightly initiated action against the person for whom the assignment of land at free of cost was given. Therefore, the Government is empowered to cancel such assignments and resume the land.

24. In the present case, an enquiry was conducted by affording an opportunity to all the parties concerned, pursuant to the directions issued by this Court. Therefore, there is no infirmity in respect of the proceedings initiated and concluded by the Competent Authorities.



25. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs.

Consequently, the connected miscellaneous petitions are also dismissed.

13-07-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn



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S.M.SUBRAMANIAM, J.

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