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W.P.No.24205 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24205 of 2017 and
W.M.P.No.25579 of 2017

K.Gnanavel

... Petitioner

Vs

1.The District Collector,
Kancheepuram.

2.The District Revenue Officer,
Kancheepuram.

3.The Revenue Divisional Officer,
Tambaram.

4.The Tahsildar, Sholinganallur,
Kancheepuram District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd respondent herein dated 09.07.2017 in Na.Ka.No.10582/2015/No.3 and quash the same and consequently direct the respondents to grant patta in the name of the petitioner in respect of the property of an extent of 2461 sq.ft. bearing Plot No.1 comprised in Survey No.201/3 situated at No.154, Madipakkam Village, Saidapet Taluk, Chengai MGR District, now Kancheepuram District.

For Petitioner : Mrs.A.L.Gandhimathi,
Senior Counsel

For Respondents : Mrs.Akila Rajendran
Government Advocate



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ORDER

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The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd respondent herein dated 09.07.2017 in Na.Ka.No.10582/2015/No.3 and quash the same and consequently direct the respondents to grant patta in the name of the petitioner in respect of the property of an extent of 2461 sq.ft. bearing Plot No.1 comprised in Survey No.201/3 situated at No.154, Madipakkam Village, Saidapet Taluk, Chengai MGR District, now Kancheepuram District.

2. The petitioner sought for issuance of patta for the landed/house property to an extent of 2461 sq.ft. bearing Plot No.1 comprised in Survey No.201/3 situated at No.154, Madipakkam Village, Saidapet Taluk, Chengai MGR District, now Kancheepuram District.

3. The said application having been considered was rejected through the order dated 09.07.2017 passed by the 1st respondent District Collector.

4. Challenging the said order of the 1st respondent,



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Mrs.A.L.Gandhimathi, learned Senior Counsel appearing for the petitioner has contended that, the petitioner purchased the property long back by valid sale consideration and the sale deed also has been registered in the concerned Registrar Office and from where the petitioner would able to trace the title, which was perfected in favour of the petitioner's predecessor-in-title, therefore based on which alone the revenue authorities must have looked into the application submitted by the petitioner to give patta.

5. However, the reason stated by the 1st respondent District Collector in the impugned order that, sometime in 1911 the property stood in the name of one individual Krishnasamy Naidu and in 1961 settlement it has been categorised as Anadheenam, therefore patta cannot be given to the petitioner, the said reason, according to the learned Senior Counsel appearing for the petitioner, is not justifiable one as the petitioner title since has been perfected by the sale deeds subsequently been made, these reasons stated by the District Collector cannot stand in the legal scrutiny, therefore the learned Senior Counsel seeks indulgence of this Court.



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6. However, Mrs.Akila Rajendran, learned Government Advocate appearing for the respondents has relied upon the following averments made in the counter affidavit.

“6.As regards the averments of the petitioner set out in paras 2, 3 and 4 of the affidavit, it is respectfully submitted that the said S.No.201/3 stands registered as follows after the said village was taken up under the Estate Abolition Act, 1948.

<i>Survey Number</i>	<i>Sub Division Number</i>	<i>Classification</i>	<i>Extent</i>	<i>Adangal</i>	<i>Remarks</i>
201	3	Circar Nanjai	0.68 Acre		Anadheenam

As per the Updating Registry the S.No.201/3 is Classified as follows:

<i>Survey Number</i>	<i>Sub Division Number</i>	<i>Classification</i>	<i>Extent</i>	<i>Adangal</i>	<i>Remarks</i>
201	3	Circar Nanjai	0.27.5 Hecter		Tharisu (dry Land)

Though the petitioner claims to have purchased the said property by way of the following documents, the said M.K.Ramasamy was not the original owner of the said property. The document relaying by the petitioner is only sham and nominal documents, the petitioner cannot claim right over the property which stands classified as “Anadheenam”. The petitioner is put to strict proof of the same.”



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7. Relying upon the same, the learned Government Advocate would further submit that, if the entire village has been taken under the provisions of the Estates Abolition Act, 1948 and the Survey No.201/3 under which only the property in question covers to the extent of 0.68 acres since has been declared as Anadheenam and this position was continued for long years and during 1963 at the time of updated resurvey the very Survey No.201/3 has been declared as 'Tharisu (dry land)', the property cannot be treated as the private property, therefore the petitioner claimed that the petitioner has purchased the property from the predecessor in title in whose favour the title has been perfected cannot be accepted.

8. Therefore the learned Government Advocate submits that, the order impugned is to be sustained.

9. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.



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10. It is the stand of the respondents Revenue Department that, the land in question had already been taken under Estates Abolition Act long back and it has been declared as Anadheenam and also updated survey since it has been treated as Tharisu (dry land), it cannot be treated as a private land for which patta also cannot be sought for by the petitioner.

11. However it is the definite stand of the petitioner that, it is a private land and the petitioner can trace title, which has been perfected, according to the petitioner, in favour of the predecessor in title of the petitioner from whom the petitioner has purchased the property.

12. However, these case and counter case with regard to the title over the property cannot be decided by this Court in a proceedings under Article 226 of the Constitution, therefore it is for the petitioner to approach the competent Civil Court to file a declaratory suit and seek for such a relief where alone the evidence by both sides can be adduced and after appreciating the same, the Civil Court can come to a right conclusion as to the title over the property.

13. In that view of the matter, this Court is inclined to dispose of



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this writ petition with the following orders:

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That the petitioner is relegated to go before the Civil Court and to file an appropriate civil suit for redressal of the grievances of the petitioner at the earliest. If the petitioner files such a suit where it is open to the petitioner to let in whatever the documentary evidences available with the petitioner, where, these respondents should also be arrayed as a party defendants and they are also at liberty to put forth their case by adducing evidences by way of filing documents in support of their case.

14. With these observations and directions, since the order impugned cannot be interfered with at this juncture, this Writ Petition is disposed of accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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R.SURESH KUMAR, J.

Sgl

To

- 1.The District Collector,
Kancheepuram.
- 2.The District Revenue Officer,
Kancheepuram.
- 3.The Revenue Divisional Officer,
Tambaram.
- 4.The Tahsildar, Sholinganallur,
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