IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.P.(MD) No.10013 of 2014
and
M.P.(MD) Nos.1 and 2 of 2014

B.Manoharan
S/o.Baskaran ... Petitioner

versus

1. The District Revenue Officer
   Trichy.

2. The Revenue Divisional Officer
   Trichy.

3. The Tahsildar
   Thiruverumbur
   Trichy.

4. A.Mahaboob Hussain
   Son of B.S.Akbar Hussain

5. M.Najini Begum
   W/o. Mohamed Hussain

6. Firdose
   D/o.A.Mohamed Hussain

7. Hajira

D/o.A.Mohammed Hussain

8. M.Yasin Hussain
S/o.A.Mohammed Hussain ...Respondents

*R4 to R8 impleaded as per order dated 17.07.2014 in M.P.No.3 of 2014

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 3rd respondent in Na.Ka.A2/1432/2012 dated 13.09.2013 and the impugned order passed by 2nd respondent in Na.Ka.A7.7946-2013 dated 16.12.2013 and quash the same.

For Petitioner : Mr.R.Narayanan

For Respondent : Mr.P.Gurunathan
Additional Government Pleader
for R1 to R3

Mr.V.Ragavachari
Senior counsel
assisted by Ms.V.Srimathi
for R4 to R8

**ORDER**

The present writ petition was originally filed before the Madurai Bench of Madras High Court. Since the matter pertaining to the same notification was challenged in W.P.No.25709 of 2014, the present writ petition was transferred to this Court and listed along with W.P.No.25709 of

2014 which is being allowed by this Court today i.e., on 10.11.2023.

2. This writ petition has been filed seeking to quash impugned orders dated 13.09.2013 bearing reference No.Na.Ka.A2/1432/2012 passed by the 3rd respondent and dated 16.12.2013 bearing reference No. Na.Ka.A7.7946-2013 passed by 2nd respondent.

3. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for respondents 1 to 3 and learned Senior Counsel appearing for respondents 4 to 8.

4. The facts of the case in a nutshell are as follows:

4.1. The petitioner is running a real estate business under the name and style of 'Vinayaga Real Estate'. He purchased a property in Survey No.164/2, measuring an extent of 6 acres from Sundararajan, Jayabharathi, Sakthi Kumari and Meenakshi, who were all having equal share in the subject properties. On 30.04.2001, the said Meenakshi and Sakthi Kumari executed a Power of Attorney Deed in favour of the said Sundararajan.

Thereafter, the said Sundararajan has executed the sale deed in favour of petitioner on 04.10.2004, measuring an extent of 3 acres in respect of the shares of Meenakshi and Sakthi Kumari. Later, on 29.09.2005, the said Sundararajan and Jayabharathi have executed the General Power of Attorney in favour of writ petitioner, in respect of their shares measuring an extent of 3 acres. On 19.04.1979, the Government of Tamil Nadu notified the surplus lands under the 'Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961' [hereinafter 'said Act'] vide G.O.Ms.No.857, Revenue Department. In the said notification, the properties in Survey No.164/2 measuring an extent of 6 acres, were also notified. Originally, the subject properties belonged to Mehaboob Hussain and Mohammed Hussain. After the said notification under the said Act, the subject properties were taken out by the Government. Later, the subject properties were allotted to the vendors of the petitioner and patta was also granted in their favour by third respondent herein, in the year 1983. After execution of the sale deed and Power of Attorney Deed in favour of the writ petitioner, the writ petitioner converted it into 176 plots, after getting approval from the Village Panchayat, Suriyur Village, Thiruverumbur Panchayat Union and thereafter, the petitioner sold out the entire properties.

4.2. On 03.10.2011, the said Mahaboob Hussain and Najini Begum, wife of Late Mohammed Hussain, have preferred a complaint before the Superintendent of Police, Trichy District and it was forwarded to Anti-Land Grabbing Cell, Trichy, in which the above said persons have admitted that the subject properties were already taken out by the Government under the said Act and the said complaint was also closed. Later, they preferred a complaint to the District Collector, Trichy and the said complaint had been forwarded to the 2nd respondent, in turn the same was forwarded to the third respondent. The third respondent sent a notice to the writ petitioner in the year 2013 and petitioner appeared before the third respondent on the hearing dates, but the the enquiry was not conducted. On 15.04.2014, the writ petitioner received a notice from first respondent and impugned orders dated 13.09.2013 and 16.12.2013 passed by second and third respondents, in which the third respondent has recommended to change the patta in favour of the said Mehaboob Hussain and legal heirs of Mohammed Hussain and second respondent has also confirmed the same. Hence, the writ petitioner is before this Court.

5. The learned counsel for writ petitioner submits that the subject properties originally belonged to respondents 4 to 8 and vide G.O.Ms.No.857 Revenue Department, the Government of Tamil Nadu, have acquired the said lands and the same were assigned to vendors of the writ petitioner, patta was also transferred in their favour and that they were cultivating the lands for some time and later, some portion of the lands measuring an extent of 3 acres were sold to the writ petitioner herein under a registered sale deed, dated 04.10.2004, vide Doc.No.3746 of 2004. All of a sudden, entries were changed in the name of private respondents 4 to 8 in the revenue records.

6. The main contention of learned counsel for writ petitioner is that, no notice was served on writ petitioner and behind his back, the official respondents have changed the entries in the revenue records, which warrants interference.

7. A counter affidavit dated 14.10.2014 has been filed by the third

respondent.

8. A perusal of the counter affidavit reveals that while updating the Register, some errors have crept in with respect to the subject properties and subsequently, the subject properties were also conveyed in favour of Jayabharathi and Rathnammal. The said Jayabharathi entered into a sale agreement with VGP Company, vide sale agreement No.1107 of 1986, but the said transaction was not completed. The petitioner herein sold the the subject properties to several individuals. On receiving a complaint from the said Mehaboob Hussain and Mohammed Hussain and on the orders of the District Collector, Trichy, a detailed enquiry was conducted and a notice of enquiry was sent to the petitioner herein, Jayabharathi and Mehaboob Hussain on 10.01.2023 and 14.01.2013, but the notice could not be served on Jayabharathi, as her present whereabouts are not known. The petitioner herein did not appear for the enquiry and only Mehaboob Hussain attended the enquiry.

9. On verification of the records, it is seen that, by taking advantage of

the wrong entry in the "A" Register pertaining to the subject properties in the name of Jayammal, who has nothing to do with the same, a massive land grab operation perpetrated. There are no records available in the office as to the taking over of the lands under said Act or granting patta in favour of the petitioner's vendor.

10. The learned Additional Government Pleader for official respondents submits that there is a mistake in the revenue records. Though notice was served on the writ petitioner, he did not come forward with any objections and also not cooperated for the enquiry conducted in respect of the complaint filed by the respondents 4 to 8. Therefore, official respondents conducted enquiry with the private respondents herein and a perusal of the entire records, show that the subject properties were not originally assigned to the vendors of the writ petitioner and that there was a fraud entry in the revenue records and therefore, considering the materials placed by private respondents before the official respondents, they have passed the impugned orders. Therefore, there is no merit in the writ petition and the same is liable to be dismissed.

11. The learned Senior Counsel appearing for respondents 4 to 8 submits that respondents 4 to 8 are the owners of the subject properties and the same was admitted by the writ petitioner in paragraph No.3 of his affidavit filed in support of the writ petition. The learned Senior Counsel further submitted that as contended by the writ petitioner the subject properties were not notified by the Government of Tamil Nadu, under the said Act and after the said notification, the Government has not conveyed the subject properties in favour of the vendors of the writ petitioner. On the complaint lodged by respondents 4 to 8, the third respondent conducted enquiry, after issuing notice to all the parties and passed the impugned order dated 13.09.2013, stating that there is a wrong entry in the revenue records and the patta obtained by the writ petitioner was cancelled and it was recommended to change the patta in favour of private respondents 4 to 8 and submitted a report to second respondent, who in turn, after perusing all the records had passed the impugned order dated 16.12.2013, recommending the Superintendent of Police to take action against the writ petitioner and the vendors of writ petitioner. Hence, the impugned orders passed by the

second and third respondents dated 13.09.2013 and 16.12.2013 do not require any interference and the writ petition is liable to be dismissed.

12. Admittedly, private respondents 4 to 8 have lodged a complaint before the official respondents seeking rectification of the entries made in the revenue records and the official respondents have conducted enquiry after issuing notice to all the parties and perusing the materials and found that there are no records to show that the subject properties were declared as surplus lands which was taken possession from the vendors of private respondents 4 to 8 and ultimately, made a conclusion that wrong entries were made in the revenue records. A perusal of the records and the counter affidavit filed by the official respondents would show that the subject properties are not subjected to notification and declared the subject properties as surplus lands and therefore, it was not governed by the notification, which was not legally assigned to the vendors of writ petitioner.

13. On entire reading of the impugned orders, it shows that it is clear that the official respondents had given notice to all the parties and after perusing the materials produced by the private respondents 4 to 8, it was

found that the subject properties were not declared as surplus lands and therefore, under such circumstances, the petitioner has failed to establish his rights as stated in his affidavit filed in support of the writ petition and hence, he is not entitled to the relief as sought for in the writ petition.

14. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

**10.11.2023**
**(2/2)**

Speaking/Non-speaking order
Index:Yes/No
Neutral citation : Yes/No
*mk*

To
1. The District Revenue Officer
   Trichy.
2. The Revenue Divisional Officer
   Trichy.
3. The Tahsildar
   Thiruverumbur
   Trichy.

**P.VELMURUGAN, J.**

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(2/2)