

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5785 of 2020

and

W.M.P.(MD) No.5054 of 2020

S.Muthaiah

.. Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

2.The Sub Collector,
Tirunelveli,
Tirunelveli District.

3.The Zonal Deputy Tahsildar,
Palayamkottai,
Tirunelveli District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to S.Ma.A2/05/19 dated 07.02.2020 passed by the first respondent confirming the order passed by the second respondent in Ni.Mu.No.A3/6222/2018 in Appeal No.21/2017 dated 14.02.2019 and

the order passed by the third respondent in Application ID 017/0103/29/073962 dated 16.08.2017 and quash the same and consequently direct the respondents to consider the petitioner's application and issue individual patta to the petitioner's property.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.D.Ghandiraj
Special Government Pleader

ORDER

This writ petition is filed for issue of a Writ of Certiorarified Mandamus calling for the records pertaining to S.Ma.A2/05/19, dated 07.02.2020 passed by the first respondent in and by which the first respondent has confirmed the order passed by the second respondent in Ni.Mu.No.A3/6222/2018 in Appeal No.21/2017, dated 14.02.2019 and the order passed by the third respondent in Application ID 017/0103/29/073962, dated 16.08.2017 and quash the same and consequently direct the respondents to consider the petitioner's application and issue individual patta to the petitioner's property.

2. It is the case of the petitioner that he is the owner of the property measuring 4 acres and 55 cents in S.No.1520 at Sivalaperi Village, Palayankottai Taluk, Tirunelveli District, which he had purchased under a registered sale deed dated 21.07.2017. His vendors, in turn, had purchased the property from one N.V.Gopalakrishnan, represented by his Power of Attorney T.R.Shankaran under a registered sale deed dated 14.09.1999 on the file of the Sub Registrar's Office, Gangaikondan. After the purchase of the property, the petitioner had submitted an application for mutation of the revenue records. The same was rejected by the third respondent stating that the Power of Attorney, who had sold the property to the petitioner's vendors had done so under an unregistered power. Aggrieved by the same, the petitioner had preferred an appeal under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983 (hereinafter referred to as "the Act") before the second respondent in Appeal No.12 of 2017. The appellate authority also rejected the appeal on the very same ground and aggrieved by the same, the petitioner had filed a statutory revision under Section 13 of the Act before the first respondent. By his impugned order dated 07.02.2020, the first

respondent had also rejected the said revision only on the ground that the Power of Attorney was an unregistered one.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. Admittedly, there is no objection pending before the respondents from any third party with regard to the mutation of the revenue records in the name of the petitioner.

5. Perusal of the records would show that the Sub Registrar had registered the sale deed executed by the Power Agent T.R.Shankaran for and on behalf of N.V.Gopalakrishnan in favour of the petitioner's vendors Arockia Samy and Tamil Selvi. The document had been registered as Document No.925/1999. Nearly 18 years thereafter, the petitioner has purchased the property from the said Arockia Samy and Tamil Selvi. The sale in favour of Arockia Samy and Tamil Selvi has not been questioned by the original owner N.V.Gopalakrishnan. Therefore, it is clear that the

said N.V.Gopalakrishnan indeed had executed power to Mr.T.R.Shankaran and one of the powers given to the Power Agent is to sell the properties. The authorities have totally failed to consider the fact that the sale deed, which has been executed on the strength of the Power Agent, has been executed and registered by the Sub Registrar and for the last 18 years, there has been no claim in respect of the said property or an objection to the sale. The petitioner has purchased the property from the aforesaid purchasers. The orders passed by the authorities, therefore, suffer from a total non-application of mind and are without any legal basis. Consequently, the same are set aside.

6. In the result, this Writ Petition is allowed. The respondents are directed to issue individual patta to the petitioner within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

17.03.2023

NCC : Yes/No
Index : Yes/No
abr

P.T.ASHA, J.

abr

To

- 1.The District Revenue Officer,
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Tirunelveli District.
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