



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.20457 of 2014

S.P.Ramakrishnan (died)

R.Sankarkumar

... Petitioner

(Petitioner substituted vide court
order dated 02.06.2023)

Vs.

The Principal Secretary,
Commissioner of Land Reforms and Director
of Land Reforms and Secretary,
Bhoodan Board (i/c),
Chennai – 5.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus challenging the order passed by the respondent in Rc.K2/1034/2010 dated 14.10.2014 and quash the same and further directing the respondent to cancel the house site patta issued in the land Survey No.128/2 to an extent of 2.10 acres and leave the said portion in the peaceful possession and enjoyment of the petitioner.



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For Petitioner : Mr.T.Selvan

For Respondents : Mr.S.Ra.Ramachandran
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The original petitioner S.P.Ramakrishnan purchased 2 acres and 87 cents in Survey No.128/2, Manthithoppu Village, Kovilpatti Taluk vide sale deed dated 16.04.1980 (D.No.885 of 1980) on the file of the Sub Registrar, Kovilpatti. However, the revenue record reflected the name of Bhoodan Board in respect of the said survey number. The case of the petitioner is that the father of his vendor, namely, Shanmuga Nadar had donated 2 acres 10 cents alone and not the entire 4 acres 20 cents. Therefore, he wanted mutation of the revenue record. His request was rejected. Challenging the same, this present writ petition has been filed.

3.The learned counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant the relief as prayed for. The respondents have filed counter affidavit and they wanted to stick on to the ground set out in the impugned order.



4. Since I was not quite sure about the stand taken in the counter affidavit, I requested the Commissioner of Land Survey to appear before this Court through WhatsApp. Pursuant to the request made by this Court, Dr. N. Venkatachalam, IAS appeared and after verifying the relevant records fairly stated that only 2 acres and 10 cents was donated out of 3 acres 87 cents. Thus, out of 4 acres and 20 cents, 2 acres and 10 cents alone was donated by Shanmuga Nadar to Bhoodan Board. When field survey was conducted, it turned out on ground that only 3 acres and 87 cents was available. Therefore, after demarcating the Bhoodan Board land, the balance extent of 1 acre 77 cents may be transferred to the petitioner herein. An additional counter affidavit has been filed to this effect also. Paragraphs 10, 11 and 12 are as follows :

“10. In concise, it is confirmed that survey number 128/2 is the land donated to Bhoodhan Board, as per Tamil Nadu Bhoodan Act -1958 sec-17(4). Then there is no right to Shanmuga Nadar (donor) or his legal heirs to sell this property to an extent of 2.10 acres which have already been donated to the Bhoodhan Board in the year 1957 itself. The sale of donated lands to the third party is null and void. Further, it is to state that the petitioner cannot claim right over the property which was donated already and as it defeats the very noble objective of the Bhoodhan Act. Once a property donated is donated forever and it could not be taken back. It is a well known legal dictum. I



enclosed herewith 'A' Register copy, Sketch and Google map showing the land in question. I further state that the land in question was already distributed to the landless poor persons as house sites and certain extent lies as road and other common places and the remaining extent of 0.81 acre is now in the hands of Government and it is barren land.

11.I submit that the Revenue Divisional Officer, Kovilpatti Division has inspected the lands in question on 31.08.2023 along with the Tahsildar, Deputy Tahsildar, Kovilpatti, Taluk Deputy Surveyor, Revenue Inspector, Kazhugumalai and Village Administrative Officer, Mandhithoppu Village. The Revenue Divisional Officer has stated that since there are some boundaries stones are seen on the ground, it is understood that the house sites plots had been laid out in the subject land. Further, the Revenue Divisional Officer has stated that 89 persons were allotted house sites to an extent of 0.03 cents each and the balance lands lie as road, street and common usage. Since the plot number wise beneficiaries list is not available, it is not able to find out which three plots are vacant among the total plots of 92. But no houses were built in the subject land/plots and as of now the total extent of 3.87 acres are lying vacant.

12. It is submitted that the land owner Thiru Shanmuga Nadar has donated land to an extent of 2.10 acres out of 4.20 acres to and in favour of Bhoodhan Board in the year 1957. Subsequently, during UDR the aforesaid total extent has been determined as



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3.87 acres. Out of 3.87 acres an extent of 2.10 acres has been donated to Bhoodhan Board and after demarcating the Bhoodan land, the balance extent of 1.77 acres may be transferred to the petitioner. In this regard distributions have already been given to the landless poor persons in the subject land but on perusing the Revenue Divisional Officer inspection report and Google map, it is found that entire land is lying vacant and no houses or any other buildings found.”

4. In view of the fair stand taken by the respondent, appropriate mutation shall be made in the revenue record in favour of the petitioner in respect of the land available on ground as vacant. This shall be done immediately and without any delay. This writ petition is allowed. No costs.

15.09.2023

Index : Yes / No
Internet : Yes/ No
skm

To

The Principal Secretary,
Commissioner of Land Reforms and Director
of Land Reforms and Secretary,
Bhoodan Board (i/c),
Chennai – 5.



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G.R.SWAMINATHAN, J.

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