BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)No.1272 of 2022
and
CMP(MD)No.9837 of 2022

K.Chinnapandi ... Appellant

vs.

1. Alagarsamy

2. The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.

3. The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

4. P.Gunasekar ... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, against the order dated 03.08.2022 passed in W.P(MD)No.12745 of 2022.

For Appellant : Mr.G.Prabhu Rajadurai for
Mr.M.Jothi Basu
For R1 : Mr.Isaac Mohanlal, Senior Counsel
For R2 & R3 : Mr.P.T.Thiraviam, Government Advocate

JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The appellant is a busybody who wants to poke his nose and attempt fish in troubled waters. The land in question was assigned to one Sanjeevirajan on 04.02.1987 under Standing Order 15(8) of the Revenue Standing Orders. A patta was also issued in his name. The said Sanjeevirajan sold the property to one Velusamy on 29.03.2007. Consequent upon the sale, the revenue records were also mutated in the name of Velusamy. Thereafter, after about 13 years, the said Velusamy sold the property to the 1st respondent herein. After the said sale, some of the villagers joined together and petitioned the Revenue Divisional Officer, Aruppukottai, to assign the land in favour of the temple. The said request was rejected. Thereafter, the villagers hatched conspiracy and petitioned the very same Revenue Divisional Officer for cancellation of the assignment on the ground of violation of the conditions. This time, there was a change in climate and the Revenue Divisional Officer obliged the villagers by passing a cancellation order on 13.06.2022. This cancellation order was subject matter of challenge in the writ petition in W.P(MD)No.12745 of 2022. The writ petition was resisted on the ground that the sale has been in violation of the conditions prescribed. The Writ Court had allowed the writ petition on the ground that the cancellation was done without notice to the purchaser of the property and that the alleged violation of condition will not vitiate the sale, since mutation of revenue records has been effected. Aggrieved, the 4th respondent in the writ petition is on appeal.

2. We have heard Mr.Prabhu Rajadurai, learned counsel appearing for the appellant, Mrs.Isaac Mohanlal, learned Senior Counsel appearing for the 1st respondent and Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondents 2 & 3.

3. Mr.Prabhu Rajadurai would concede that the cancellation passed without notice to the 1st respondent is not right. He would, however, take objection to the portion of the order of the Writ Court where the Writ Court has foreclosed any further enquiry on the ground that the mutation of revenue records would amount to grant of permission. According to Mr.Prabhu Rajadurai, this portion of the order of the learned Single Judge has to be interfered with and if it is

found that the sale is in violation of the conditions of assignment and the same is in favour of the person who is not qualified for assignment, then it will be always open to the Government to cancel the assignment after notice to the alienee. According to the learned counsel, the Writ court must have left that question open and given an opportunity to the Government to re-examine the position.

4. Contending contra, Mr.Isaac Mohanlal, learned Senior Counsel appearing for the 1st respondent would submit that in view of the judgment of the Division Bench of this Court in **T.Tirumalai Gounder and another vs. The State of Tamil Nadu,** reported in **2010-5-L.W. 289,** relied upon by the Writ Court, the contention of the learned counsel for the appellant that the Writ Court erred in foreclosing any enquiry on the status of the alienee, cannot be accepted. According to Mr.Isaac Mohanlal, once the authorities have accepted the alienations and effected mutations in the revenue records, the appellant cannot challenge the alienations.

5. In the case on hand, the assignee had sold the property to Velusamy and the said Velusamy had sold the property to the 1st

respondent. Therefore, the property has already crossed one hand when it was purchased by the 1st respondent. If we are to permit a probe into the alienation, the same must be of the alienation that took place in the year 2007 in favour of Velusamy. We do not think we could allow such a probe that too after the authorities had acted upon the alienation and had effected mutation of the revenue records. A Division Bench of this Court in **T.Tirumalai Gounder and another vs. The State of Tamil Nadu,** reported in **2010-5-L.W. 289,** referred to supra, has only said that once mutation of revenue records has been made, absence of permission will not vitiate the sale. In the case on hand, as we could seen from the order, mutation of revenue records was effected after every sale. Therefore, we do not see any reason to fault the Writ Court for having allowed the writ petition *in toto*. The Writ Appeal fails and it is accordingly dismissed. No costs. Connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
11.04.2023

Index : Yes / No
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Neutral Citation : Yes / No

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and
L.VICTORIA GOWRI, J.
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To

1. The Revenue Divisional Officer,
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Virudhunagar District.

2. The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

JUDGMENT MADE IN
W.A(MD)No.1272 of 2022
DATED : 11.04.2023