



W.P.(MD)No.16271 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :11.04.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.16271 of 2016

and

W.M.P.(MD).N0s.11904 & 11905 of 2016

Thangam

... Petitioner

Vs.

1.The Sub Collector,
Lalgudi Post & Taluk,
Trichy District.

2.Sangapillai

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari thereby call for the records of the first respondent in Na.Ka.A3-302-2016 dated 05.07.2016 and quash the same as illegal and arbitrary.

For Petitioner :Mr.P.Ganapathi Subramanian

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader for R1

:Mr.K.C.Ramalingam for R2



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ORDER

The petitioner assails an order dated 05.07.2016 of the first respondent. By such order, the first respondent directed that the name of the petitioner be deleted from the patta in respect of Survey No.43/14K admeasuring 19.50 ares and that the patta be issued in the name of Sangapillai, the second respondent herein.

2. The petitioner asserts that the land bearing S.F.No.43/14K, admeasuring 19.50 ares in Oottathur Village, originally belonged to the second respondent's father, Rathinam Pillai. The petitioner further asserts that the said Rathinam Pillai conveyed the land to the second respondent by executing an agreement in the presence of village panchayathars and that possession was handed over to the petitioner. The petitioner states that a civil suit is pending between the petitioner's vendor and some third parties. As a result, the petitioner further states that she was informed that the registered sale deed would be executed in her favour upon conclusion of the said proceedings.



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3. In these circumstances, the petitioner asserts that a patta was issued in her favour and that the issuance of such patta was known to her vendor, Rathinam Pillai. After the death of Rathinam Pillai, the petitioner states that the second respondent filed a petition before the first respondent for mutation of the patta in his favour. Based on such petition, it is stated that the impugned order was issued.

4. Learned counsel for the petitioner assails the impugned order on the ground that the first respondent should not have decided the title dispute between the petitioner and the second respondent. He further submits that the petitioner is in possession of the property and that neither the petitioner nor the second respondent have any registered title documents in respect of the property. Therefore, he submits that impugned order is liable to be set aside and that parties should be directed to resolve the disputed questions relates to title over the property before the jurisdictional civil court.

5. These contentions are refuted by learned counsel for the second respondent. Learned counsel for the second respondent submits that the



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property was owned by his father, Rathinam Pillai. Upon his death on 03.06.2012, the second respondent became entitled to the property as the legal heir. Learned counsel refutes the contention of the petitioner that Rathinam Pillai was aware of the grant of patta to the petitioner. In fact, learned counsel submits that Rathinam Pillai died in the year 2012, whereas patta was granted to the petitioner in the year 2016. He also submits that the first respondent duly considered the documents produced by the parties to conclude that the second respondent is entitled to a mutation of the patta in his name. Hence, he submits that the impugned order is liable to be affirmed.

6. Learned Special Government Pleader submitted that the petitioner was called for an inquiry by the first respondent on 04.07.2016. She produced a typed set of documents. By drawing reference to such documents, learned Special Government Pleader pointed out that the A Register reflects the name of C.Rathinam as regards the property bearing Survey No.43/14K. After pointing out that the patta was issued to the petitioner subsequently, she further pointed out that a report was issued by the Tahsildar to the Sub-Collector on 10.02.2016, and that the said report



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referred to the A Register. It also referred to the scrutiny of the encumbrance certificate relating to the property and to the fact that no encumbrance was registered in relation to the relevant property in favour of the petitioner. Since the impugned order was issued after taking into consideration all the relevant records such as the A Register and the encumbrance certificate, learned Special Government Pleader submits that no interference is called for with the impugned order.

7. On perusal of the impugned order, I find that the first respondent examined the A Register and discerned therefrom that patta No. 693 was registered in the name of C.Rathinam as regards the property bearing Survey No.43/14K. The first respondent also examined the title deed bearing document No.663 of 1985 in the name of Rathinam Pillai. Thereafter, the encumbrance certificate for the period 01.01.1987 to 28.10.2015 was examined. On such basis, it was concluded that no conveyance was registered in favour of the petitioner. After noticing these facts, by taking into consideration the legal heirship certificate issued in favour of the second respondent, the first respondent directed the deletion of the name of the petitioner and the mutation of the patta in favour of the



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second respondent.

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8 The petitioner does not contend that she was not heard by the first respondent before issuing the impugned order. Thus, the impugned order was issued after putting the petitioner on notice and providing her a reasonable opportunity. The order reflects that the first respondent examined the relevant documents placed for consideration by the parties. I find no infirmity in the impugned order. Therefore, I am not inclined to interfere with the same.

9. For reasons set out above, W.P.(MD).No.16271 of 2016 is dismissed. This order will not, however, stand in the way of any proceedings instituted by the petitioner in respect of the sale agreement dated 31.12.1990. There shall be no order as to costs. Consequently, connected W.M.P.(MD).Nos.11904 & 11905 of 2016 are closed.

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NCC :Yes/No
Internet :Yes/No
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To

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SENTHILKUMAR RAMAMOORTHY, J.

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