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Order dated 13.02.2024
in W.P.No.366 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.366 of 2024
and
W.M.P.No.419 of 2024
--

Mrs.Anandhi Akilan

.. Petitioner

Vs.

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai.

2. The District Collector,
Chengalpet District,
Collectorate, Chengalpet-603 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.R2/4312904/2023, dated 09.08.2023 and the consequential impugned order passed by the second respondent in Se.Mu.No.10577/2023/A5, dated 23.08.2023 and quash the same as illegal and arbitrary and without jurisdiction.

For petitioner : Mr.N.Manokaran for Mr.S.T.Bharath Gowtham

For respondents: Mr.T.Arun Kumar, Addl.G.P.

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a



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Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.R2/4312904/2023, dated 09.08.2023 and the consequential impugned order passed by the second respondent in Se.Mu.No.10577/2023/A5, dated 23.08.2023 and quash the same as illegal and arbitrary and without jurisdiction.

2. Learned counsel for the petitioner submitted that the land in question has been classified as "Pattinavar Natham" and therefore, the land does not belong to the Government and based on their possession and enjoyment, the Patta was granted to the fishermen community. Thereafter, from some of them, the petitioner has purchased the land of an extent of 49647 Sq.Ft., which is equal to 400 MLD. Subsequent to the purchase, they have also obtained Patta in their name. Thereafter, the land was proposed to be acquired for the purpose of doing a project by the Chennai Metropolitan Water Supply and Sewerage Board. At that time, even the Revenue Authorities have to report that the petitioner had purchased the land and also recommended for acquisition and even the Revenue Authorities also recognised the petitioner's title and patta and made recommendation, but subsequently, it is unfortunate that the impugned order has been passed and due to violation of assignment, the vendor(s) of the petitioner are not entitled to the land, and therefore, the petitioner is also not entitled to the same. Further, before passing the impugned order(s), the



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petitioner was not issued with any notice and he was not given an opportunity of hearing before the impugned orders are passed. Hence, it is violation of principles of natural justice.

3. Learned counsel for the petitioner further submitted that when once the land is classified as "Natham" land and that Patta also has been issued and they have recognise the title and possession and that the land has to be taken away only by due process of law and not in the arbitrary manner and also no notice was served on the petitioner and no opportunity of hearing was afforded and without giving notice and without giving an opportunity of hearing, the impugned orders came to be passed, which is liable to be struck down on the violation of the principles of natural justice.

4. It is further submitted by the learned counsel for the petitioner that the classification of the land as Natham land and it is not vested with the Government, which is not the owner of the land in question. However, if in the larger interest of public, if they have taken the land, they have to follow the procedures contemplated under law.

5. In support of his contentions, the learned counsel for the petitioner relied on the following decisions:

(i) 2013 (1) SCC 353 (Tukaram Kana Joshi Vs. MIDC);



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(ii) 2009 (12) SCC 40 (Uma Nath Pandey Vs. State of U.P.) and

(iii) MANU/TN/6455/2023 (DB) (R.A.V.Kovil Annayya Charities Vs. The District Collector, Tiruvallur and others).

6. Thus, according to the learned counsel for the petitioner, when once the Patta is issued and the title of the petitioner is also recognised, the land had to be taken only in the manner known to law and it will not affect Article 300-A of the Constitution of India. The petitioner has right to property and hence, the learned counsel placed reliance on the above judgments and prayed that the impugned orders are liable to be set aside. In case the Government had taken a decision to acquire the land, they have to do the same under due process of law and thereafter recover the land.

7. Relying on the counter affidavit filed by the respondents, learned Additional Government Pleader submitted that the land was originally classified as "Grama Natham" and even before the UDR, it was only classified as "Grama Natham" and subsequent to the UDR, it is classified as "Pattinavar Natham" land, but however, it is vacant and no one has occupied and it is only kept as vacant land and as long as the Natham land is kept vacant, it will be under the control of the Government only. He further submitted that the Pattas alleged to have



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been issued to the vendors of the petitioner, are only fair Pattas and it is even shown in the official records and the Land Register had not been registered, but however, it was manipulated by some persons and there is no pagination in the Registers and also even today, the land is kept vacant and however, it was manipulated and shown as only house/hut, on the ground that there is no hut and it was not in the occupation of any individual. Therefore, if a person does not have a right and title, he/she cannot alienate the property. The petitioner cannot get better title than his vendor and the vendors do not have any title much less than adverse possession against the Government and they cannot claim any right and therefore, based on their sale deed, the petitioner cannot get a better title.

8. Learned Government Advocate further submitted that since the petitioner is not the bona-fide purchaser and also has no title, notice need not be given, and even otherwise, the Court can keep the impugned order as pending and order for further enquiry. The respondents have also initiated proceedings to find out the manipulation of the records in the Revenue Records and also to find out the persons who have made such entry, and therefore, the Writ Petition is misconceived.

9. Heard both sides and perused the materials available on record.

10. The impugned orders show that the land was originally classified as



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"Grama Natham" and subsequently, it was re-classified as "Pattinavar Natham" and also in S.No.216 was sub-divided as S.No.216/21 etc,. and corresponding entries were mutated in the Revenue Records as if Patta was granted to the private individuals and however, that was not issued by the competent authority and therefore, they have taken steps to find out about the mistake in the Revenue Records.

11. Admittedly, the Patta was issued to the writ petitioner in Patta No.116. yet another Patta was issued to her in Patta No.563.

12. The citations relied on by the learned counsel for the petitioner, are distinguishable on facts and hence, the same are not applicable to the case of the petitioner.

13. However, the respondents have not issued with any notice to the petitioner before passing both the impugned orders, and therefore, both the impugned orders are liable to be set aside. Accordingly, both the impugned orders are set aside. The matter is remitted back to the first respondent, who is directed to issue notice to the petitioner and rival claimants/interested parties/objectors/aggrieved parties, as the case may be, and conduct enquiry afresh after giving notice to all the parties and pass appropriate orders on merits and in accordance with law.

14. Since the respondents themselves have stated in their counter affidavit



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that the Patta issued is not genuine and there is manipulation of the same in the Revenue Records, this Court directs the Chief Secretary to Government, Government of Tamil Nadu, Secretariat, Chennai-600 009/appointing authority/disciplinary authority, as the case may be, to find out the officer(s) who have manipulated the records during the relevant period of time and during whose period the records have been manipulated/wrong entries have been made in the Revenue Records/illegal Patta having been issued and take necessary/appropriate/departmental action and initiate departmental proceedings against those concerned officers who are responsible for the said manipulation and conduct enquiry on the same in accordance with the disciplinary proceedings Rules. On such departmental enquiry, the said authority shall file report before this Court against those persons responsible for such manipulation of Revenue Records.

15. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, W.M.P. is closed.

16. List this Writ Petition on 29.4.2024 for filing action taken report as stated above.

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P. VELMURUGAN, J

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