



Order dated 14.03.2024
in W.P.No.3380 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.03.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3380 of 2024

Chandran

.. Petitioner

Vs.

1. The District Collector,
Collectorate,
Tiruvannamalai,
Tiruvannamalai District.

2. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.

3. The Thasildar,
Office of the Thasildar,
Tiruvannamalai,
Tiruvannamalai District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order in Na.Ka.F1/5569/2023, dated 04.01.2024 on the file of the third respondent and quash the same and consequently direct the second respondent to assign and issue 'D' Form Patta changing from the petitioner's father to and in favour of the petitioner and within the time frame that may be fixed by this Court.



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For petitioner : Mr.S.Arokia Maniraj

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

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order in Na.Ka.F1/5569/2023, dated 04.01.2024 on the file of the third respondent and quash the same and consequently direct the second respondent to assign and issue 'D' Form Patta changing from the petitioner's father to and in favour of the petitioner and within the time frame that may be fixed by this Court.

2. Though the property in question was originally assigned to the petitioner's father way back in 1940 itself, thereafter, the petitioner's father sold the property to non-depressed class member in the year 1957 and thereafter, the Government came to know about that and the land which was assigned the depressed class member, was sold to a member of the non-depressed class land, and therefore, the sale deed was set aside and the possession was restored and though it vested with the Government, now it is classified as "Arasu Poramboke" and subsequently, the writ petitioner filed a representation before the District Collector and Patta was also issued, whereas they have dismissed that, because,

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his father has already sold the property, and since the father has already sold the property to non-depressed class member, the sale was also thereafter set aside, and the property was thereafter restored to the Government. The Revenue Records show the property as "Arasu Poramboke".

3. Learned counsel for the petitioner submitted that the sale deed said to have been executed by the petitioner's father in 1957 is not a valid one and the respondents have also accepted the said contention, since non-depressed class member cannot get the title, and therefore, the sale deed executed in respect of the depressed class land, was set aside and restored. Learned counsel for the petitioner placed reliance on a decision of the Supreme Court in the case of State of Rajasthan and others Vs. Aanjaney Organic Herbal Pvt. Ltd, in Civil Appeal Nos.6741-6742 of 2012, with Civil Appeal No.6743 of 2012 (judgment dated 20.09.2012), in support of his contentions and in the said decision, the Apex Court held that if there is any alienation of the assigned land meant for depressed class members, i.e., if it is sold to non-depressed class member, then the sale is void and hit by Section 42(b) of the Rajasthan Tenancy Act, 1955, therein, whereas, there is no such Act in the case on hand, however, the petitioner applied for the same, but admittedly, the land belongs to depressed class person/Panchami land, and the same was assigned originally to the father of the petitioner, and the father had sold the same to a non-depressed class



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member, and hence, the sale was set aside. Therefore, as per the decision of the Hon'ble Supreme Court cited supra and the provisions of Section 42(b) therein, the original owner has been put in possession whereas, in this case, the original owner is not alive and therefore, in the above circumstances, the sale was set aside and the land was restored and kept in possession of the legal heirs of the land owner, and ultimately, it vested with the Government. Therefore the said decision of the Supreme Court is not applicable to the case on hand, in the absence of the original owner at the time of cancellation of sale deed, and the petitioner is also a member of the depressed class member and also the land was also kept as poramboke/vested with the Government. The respondents can consider the representation of the petitioner and the petitioner is at liberty to make a fresh application for assignment within a period of two weeks from the date of receipt of a copy of this order and in case the petitioner makes such application, then the respondents are directed to consider his representation and assign the land to the petitioner, if he is otherwise eligible for the same.

4. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

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To

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Tiruvannamalai District.
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