IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.13024 of 2024 and
W.M.P.No.14182 of 2024

R.Krishnasamy ..Petitioner

Vs.

1. The Revenue Divisional Officer
Ponneri Revenue Division,
Ponneri-601 204.

2. The Tahsildar
Gummidipoondi Taluk
Gummidipoondi,
Thiruvallur District.

3. Dr.Kumaravel ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to the order dated 29.07.2021 in proceedings bearing number Na.Ka.135/2020/A2 and thereby to quash the same and consequently direct the respondents 1 and 2 to restore the patta bearing patta Number 2415 in the names of the petitioner and his sons, in respect of the lands comprised in S.Nos.72/5A and 72/5B at Karadiputhur Village, in Gummidipoondi Taluk, Thiruvallur.

For Petitioner : Mr. V.Ajoy Khose

For Respondents 1 &2 : Mr.P.Sathish
Additional Government Pleader
For Respondent 3 : Mr.C.K.Chandrasekkar

ORDER

The petitioner has filed this writ petition challenging the order passed by the 1st respondent cancelling the sale deed executed in favour of the petitioner and also the patta in his name.

2. According to the petitioner, the property comprised in S.Nos.72/5A and 72/5B at Karadiputhur Village, Gummidipoondi Taluk, Thiruvallur District with an extent of 1.05.0 Hectares originally belongs to K.P.Purushothama Pillai. He sold the same in favour of Ammani Ammal @ Nagabooshanam Ammal under a sale deed dated 01.07.1974. The said Ammani Ammal, after obtaining patta in her name, in turn sold the property to petitioner's wife one Lakshmi vide sale deed 20.02.1995. After purchase by the petitioner's wife, the revenue documents also got mutated in her name. It is also stated that after purchase, the petitioner's wife had been in possession and enjoyment of the above mentioned property by planting various mango and palymyrah tress

thereon. The petitioner's wife died on 13.02.2013 leaving behind the petitioner and his two sons as legal representatives. Thus, the petitioner and his sons have been in possession and enjoyment of the above said land. After death of petitioner's wife, the patta also changed in favour of petitioner and his sons in Patta No.2415. It is further stated by the petitioner that in the year 2022, the 3rd respondent attempted to interfere with his possession on the ground that the patta for the above mentioned property stands in his name. On verification, it was found by the petitioner that patta was transferred in the name of 3rd respondent. When the petitioner approached the 1st and 2nd respondents to verify on what basis the patta was changed in the name of 3rd respondent, there was no proper reply and the petitioner sent application on 15.06.2022 under Right to Information act to Office of the 1st respondent. Thereafter, the copy of the impugned order was served on the petitioner. It is asserted by the petitioner that no notice was issued to him before passing the impugned order cancelling patta stood in his name and also cancelling the sale deed in favour of petitioner's wife Lakshmi and other documents.

3. The learned counsel for the petitioner submitted that 1st respondent

has no power to cancel the registered documents executed in favour of petitioner's wife and therefore, the impugned order passed by him is unsustainable on the face of it. The learned counsel also submitted that before passing the impugned order adversely affecting petitioner's interest, no notice was issued to him and he was not heard.

4. The learned Additional Government Pleader, who is taking notice for the 1st and 2nd respondents, based on the instructions from the 1st respondent in his letter Rc.No.135/2020/A2 dated 02.09.2024, submitted that K.P.Purushothama Pillai sold the property to Ammani Ammal @ Nagabooshanam Ammal and registered as Document No.797/1974 and later, the said Ammani Ammal @ Nagabooshanam Ammal sold the property to petitioner's wife Lakshmi and registered as Document No.97/1996. It is also admitted by the learned Additional Government Pleader appearing for the respondents 1 and 2 that prior to passing of impugned order, Patta No.2415 stood in the names of writ petitioner and his two sons. It is also stated by the learned Additional Government Pleader that subsequent to the sale in favour of Ammani Ammal @ Nagabooshanam Ammal, the very same property in Survey

Nos.72/5A and 72/5B were sold to one Kasthuri by original owner K.P.Purushothama Pillai under Document No.371/1993 and the said Kasthuri sold the same to 3rd respondent under Document No.293/1994. It is also stated that impugned order at the instance of 3rd respondent was passed on 29.07.2021 cancelling the patta that stood in the names of petitioner and his sons. Based on the impugned order, the 2nd respondent effected transfer of patta in the name of 3rd respondent cancelling the earlier patta.

5. The contesting 3rd respondent herein filed his counter. The learned counsel for the 3rd respondent submitted that petitioner's wife Lakshmi purchased the subject property under sale deed dated 20.12.1995 and whereas the 3rd respondent purchased the subject property in the year 1992 and 1994 prior to purchase by the petitioner's wife. Therefore, according to counsel for 3rd respondent, the 1st respondent, by taking into consideration the petitioner's wife was a subsequent purchaser, rightly set aside the documents executed in her favour and cancelled the patta. The learned counsel further submitted that even prior to sale in favour of Ammani Ammal @ Nagabooshanam Ammal, under whom the petitioner is claiming title, there was a sale by original owner

K.P.Purushothama Pillai in favour of one Rajavelu @ Durairaj Pandian on 23.04.1970. Therefore, even petitioner's predecessor Ammani Ammal @ Nagabooshanam Ammal cannot be treated as a direct purchaser from K.P.Purushothama Pillai.

6. In reply, the learned counsel for the petitioner, by referring to the manual Encumbrance Certificate produced by the 3rd respondent which is filed as annexure to his counter affidavit, submitted that document dated 23.04.1970 executed by K.P.Purushothama Pillai in favour of said Rajavelu was only a mortgage deed not a sale deed. Therefore, it will not affect the title of the K.P.Purushothama Pillai to convey property to petitioner's predecessor in interest.

7. A perusal of the impugned order would suggest that 1st respondent passed orders for cancellation of registered document in respect of four survey numbers in Survey Nos.62/1, 72/5A, 72/5B and 71/1A which came into existence subsequent to the purchase of property by 3rd respondent in the year 1992 and 1994 under Documents No.1015/1992, 273/1994 and 1686/94. The

impugned order was passed mainly on the ground that subsequent sale deeds, without verifying the earlier sale deed in favour of 3rd respondent, shall not be allowed to stand.

8. The order passed by the 1st respondent directing the cancellation of the registered documents pertains to the above mentioned survey numbers which came into existence in the year 1994 is on the face of without jurisdiction. The 1st respondent has no jurisdiction to cancel the registered documents even assuming he found the same is vitiated by non-consideration of earlier document.

9. It is settled law that cancellation of the registered documents is the domain of the Civil Court and the revenue authorities like the 1st respondent is not entitled to cancel the registered documents. In this regard, it would be appropriate to refer to the observations of the Hon'ble Apex Court in the context of power of registering authority to cancel registered documents in the case of ***Satya Pal Anand vs. State of M.P.,*** reported in ***(2016) 10 SCC 767.*** The relevant observations of the Hon'ble Apex Court reads as follows:-

"The power to cancel the registration is a substantive matter. In the absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question"

10. In the case on hand, there is no statutory provision enabling first respondent, Revenue Divisional Officer to cancel the registered documents. Hence, the order passed by the 1st respondent for cancelling registered documents is clearly without jurisdiction and hence, liable to be set aside.

11. Therefore, the impugned order passed by the 1st respondent directing the cancellation of the registered sale documents is patently unsustainable and the same is liable to be set aside. Further, the petitioner's wife Lakshmi, though purchased property from Ammani Ammal @ Nagabooshanam Ammal in the year 1995 subsequent to purchase by 3rd respondent in the year 1992 and 1994, the said Ammani Ammal @ Nagabooshanam Ammal purchased the subject property from original owner K.P.Purushothama Pillai as early as

1974. Hence, the petitioner's wife Lakshmi's vendor's sale deed is anterior in time and the same will prevail over sale in favour of 3rd respondent and his vendor Kasthuri which came into existence in the year 1993, long subsequent to sale in favour of Ammani Ammal @ Nagabooshanam Ammal. Hence, on the merits of the matter also, the order passed by the 1st respondent for cancellation of registered sale deed in favour of petitioner's wife is liable to be set aside. The 1st respondent, after directing the cancellation of the registered sale deeds which came into existence subsequent to the year 1994, also cancelled the mutation of revenue records in favour of petitioner which had taken place subsequent to the death of petitioner's wife Lakshmi. Since the cancellation of patta has been ordered based on the finding that registered documents came into existence subsequent to the year 1994 were invalid, the said cancellation order should also be liable to be set aside. Once this Court comes to the conclusion that 1st respondent has no jurisdiction to set aside the registered documents, any consequential order for cancellation of patta should also to be set aside. Therefore, the impugned order passed by the 1st respondent is set aside in so far as the interest of the petitioner in respect of Survey Nos.72/5A and 72/5B are concerned. The matter is remanded back to the file of 1st respondent with direction to him to consider the petition filed by the 3rd respondent seeking cancellation of the patta after affording reasonable opportunity to the petitioner as well as the 3rd respondent.

12. With these directions, the writ petition stands allowed. Consequently, the connected miscellaneous petition is closed. No costs.

03.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

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