



W.P.No.35435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.02.2024**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.35435 of 2023

and

W.M.P.Nos.35387 & 35389 of 2023

Mohanapriyan

... Petitioner

Versus

1.The District Collector,
District Collector Office, Namakkal.

2.The Sub-Collector,
Sub-Collector Office, Namakkal.

3.The Tahsildhar,
Namakkal Taluk, Namakkal.

4.The Sub Registrar,
Sub Registrar Office,
Puduchatram, Namakkal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorari calling for the records of the second respondent pertaining to his proceedings in Pa.Mu.9512/2018/A2 dated 10.07.2019 & proceedings in Na.Ka.5341/2019/A2 dated 17.09.2019 and quash the same.

For Petitioner : Mr. K.S. Karthik Raja
For Respondents : Mr. R.U. Dinesh Rajkumar,
Additional Government Pleader.



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ORDER

This Writ Petition is filed seeking to issue a writ of Certiorari to call for the records of the second respondent pertaining to his proceedings in Pa.Mu.9512/2018/A2 dated 10.07.2019 and proceedings in Na.Ka.5341/2019/A2 dated 17.09.2019 and quash the same.

2. The case of the petitioner is that he purchased Plot Nos.33, 34, 37, 38, 39 & 64 by a registered Sale Deed, dated 11.06.2015, vide Doc. No.1884 of 2015 situated at Navani Village, Namakkal District, owned by one Mr. K. Ramakrishnan and his Power Agent, by name, Mr. A.V.N. Saravanan. From the date of purchase in the year 2015, he has been in possession and enjoyment of the properties. Based on the complaint of one Ramasamy, the second respondent held that sale deed executed in favour of the petitioner is not valid and stated that the lands vested with the Government. Though there was conditional Patta in respect of those lands, only after obtaining proper and prior permission, the petitioner purchased the said lands. It is the main contention of the petitioner that the second respondent, without issuing notice or enquiry, passed orders and also directed the third respondent to mutate all the Revenue Records as per the



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second respondent's order. Aggrieved by the same, the petitioner has filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. It is seen that the said land was originally assigned to the father of the vendors of the petitioner and others. Originally, the land was classified as “Government Tharisu”. Since the land was assigned to the landless poor, who belonged to depressed class and based on the assignment, they have also taken possession and have enjoyed the property. Subsequently, the legal heirs of the assignee issued Power of Attorney in favour of one Saravanan to deal with the property. The said Saravanan sold the property to the writ petitioner. Subsequently, on a complaint, the second respondent has made an enquiry by issuing notice to the assignee and also the Power of Attorney, who is the vendor of the writ petitioner and found that the land was allotted to the depressed class and classified as “depressed class land”. Originally, the land was assigned with



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certain conditions, which cannot be sold to the members other than depressed class. Violating the said conditions, the legal heirs of the assignee sold the property to the petitioner through Power of Attorney.

5. Admittedly, the petitioner is a non-member of the depressed class. Once the land is declared/classified as “depressed class land” and assigned to the “depressed class people”, they cannot re-classify the same as private land or any other classification. If the original assignee violated any condition imposed in the conditional assignment, then the assignment can be cancelled and the said land will vest with the Government. The said land cannot be re-classified as non-depressed class land. The same has to be maintained by the Government and the Government has to find out the members of the depressed class, who are landless poor and they can re-assign the land only to those people. Either by assignment or by any private sale, the re-classification is not permissible. The Hon’ble Supreme Court of India, in the decision reported in ***AIR 1985 SC 389 (Lingappa Kochanna Vs. State of Maharashtra)*** has held that once the land was classified as depressed class land, it cannot be re-classified. Therefore, the sale in favour of the petitioner is not valid and based on the complaint,



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enquiry conducted is in violation of conditional assignment and therefore, the assignment was cancelled. Now, the land is re-classified as “Government Tharisu” land. Therefore, the respondents are directed to identify the other persons of the same community, who are landless poor and they can assign the land to them. However, the main grievance of the petitioner is that notice was not served and no opportunity was given to him and no enquiry was conducted before passing the impugned order.

6. Admittedly, the petitioner belongs to the same Village and he is also a neighbour and he knows about the community of the assignee and the fact is that the land is also with conditional assignment. The petitioner suppressed all these facts. The petitioner, in connivance with the officials, namely, the Tahsildar and also the Power of Attorney, obtained the sale deed. Now, the counter affidavit shows that the Tahsildar, who gave “No Objection Certificate” was served with a show-cause notice and the first respondent/District Collector/Disciplinary Authority/Principal Chief Secretary/ Chief Secretary, as the case may be, who is the competent authority/disciplinary authority, is contemplating to take action against the said Tahsildar, who has given the No Objection Certificate for purchasing the property assigned to the depressed class people.



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7. However, the learned counsel for the petitioner questioned the *locus standi* on the ground that the petitioner is having document, but, the document is not a valid one. Therefore, under such circumstances, the land is now vested with the Government and it is only a vacant site. It is well settled proposition of law that the vacant possession follows the title and the title vested with the Government. Therefore, it is only now, the possession should also follow the title. When the land belongs to the Government, the petitioner cannot claim a right or title on the basis of the illegal document, namely, the sale deed executed in favour of him by the Power of Attorney, which is not valid. The petitioner cannot claim any title under the invalid document.

8. Considering the facts and circumstances of the case, this Court does not find any perversity or infirmity in the impugned proceedings issued by the second respondent. When the petitioner has no right or title in the property in question, he is not entitled for the relief sought for in the present Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.



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9. The respondent concerned, who is the competent authority to take disciplinary action, shall take action against the concerned Tahsildar, who committed unethical act of issuing “No Objection Certificate” to the petitioner, in respect of the land which was allotted to the depressed class people, without any authority, and is directed to file the action taken report as against the Tahsildar, on or before 07.03.2024.

10. Registry is directed to list the matter under the caption “**for reporting compliance**” for submitting the action taken report to be filed by the respondent concerned on 08.03.2024.

01.02.2024

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

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NOTE: Issue order copy on 09.02.2024



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To:

- 1.The District Collector,
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Namakkal.
2. The Sub-Collector,
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Namakkal.
3. The Tahsildhar,
Namakkal Taluk,
Namakkal.
- 4.The Sub Registrar,
Sub Registrar Office,
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P. VELMURUGAN, J.

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