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W.P.No.32880 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.03.2024

PRONOUNCED ON : 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

W.P.No.32880 of 2023 and
W.M.P.No.32514 of 2023

R.Subramani

....Petitioner

VS.

1. The District Collector,
Coimbatore.
2. The District Revenue Officer,
Coimbatore.
3. The Tahsildhar,
Mettupalayam,
Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings in Na.Ka.No.7710/2022/B2 dt.06.10.2023 issued by 2nd respondent, quash the same, direct the third respondent to change the classification of land in S.No.1024/2 Irumbarai Village, Mettupalayam, Coimbatore as patta land.



W.P.No.32880 of 2023

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the proceedings of the second respondent in Na.Ka.No.7710/2022/B2 dt.06.10.2023 and to direct the third respondent to change the classification of land in S.No.1024/2 Irumbarai Village, Mettupalayam, Coimbatore as patta land.

2 The case of the writ petitioner in brief is that vide proceedings No.D.R.22/70 dt.31.12.1960 assigned an extent of 5 acres 4 cents in K.S.No.1068/1 Irumbarai Village, Coimbatore District, in favour of one Rangan, based on which, patta No.893 was also issued to him. He sold the property to one Perumal vide registered sale deed dt.05.11.1974 and the said Perumal under registered sale deed dated 27.04.1978 sold the same to the petitioner's father and he was given patta No.1276, which was also entered in the patta pass book and in Chitta, Adangal extracts also his name has been entered. The petitioner's father died on 17.11.2005 and on his death the



W.P.No.32880 of 2023

property devolved upon his legal heirs namely, Suppathal (Wife), Duraisamy (Son), Vasanthani Mani (Daughter), Sundaram (Son), Subramani (Son), Ponnusamy (Son) and the petitioner only looking after the lands and cultivation. While so, it came to know from the owner of the neighbouring lands that the assignment given to the petitioner's vendor was cancelled and the neighbours challenged the cancellation of their vendondor's assignment in W.P.Nos.1552/96 and 1472/98, which were allowed holding that the cancellation of assignment was illegal. Pursuant to the said order, the third respondent also issued proceedings dated 06.09.2011 stating that the order passed in the writ petitions attains finality, based on which, the lease arrears claimed on the basis that the purchasers were in possession of government lands, were also dropped.

2.1 Thereafter, the petitioner made representation on 24.01.2012 to the second respondent seeking transfer of patta to the legal heirs, but there was no response. Hence the petitioner sought information from the third respondent under RTI Act, wherein he was informed that the assignment given to his vendor had been cancelled on the ground of violation of



W.P.No.32880 of 2023

assignment conditions and consequently, the entry was also sought to be changed as Tharisu in the revenue records. The petitioner sought for a copy of proceedings of assignment in favour of his predecessor and the petitioner received information that his predecessor was given conditional assignment in TR.No.50/70 dt.31.12.1960 and since the records pertaining to assignment and copy of assignment were not available, copy of assignment given to an adjacent land in Ks.No.1068/1 was given. Thereafter the petitioner challenged proceedings in Na.Ka.No.2627/2012/E1 dt.22.03.2012 in W.P.No.4215/2015 and this Court by an order dated 23.06.2022 set aside the order passed by the second respondent and directed to issue fresh notice, give opportunity to the petitioner and decide the issue in accordance with law. Pursuant to which, notice was issued and the petitioner appeared before the second respondent on 20.02.2023 and the petitioner submitted his statement and documents. But, the second respondent vide impugned proceedings in Na.Ka.No.7710/2022/B2 dt.06.10.2023 mechanically rejected the petitioner's request for change of entry in the revenue records, without even considering or referring to the statement filed by the petitioner. Hence the present writ petition.



W.P.No.32880 of 2023

WEB COPY 3

The third respondent filed counter stating that the subject land situated in SF.No.1024/2 at Irumbarai Village, Mettupalayam Taluk, in Coimbatore District as a “Conditional patta” land. The original assignee namely one Rangan belonged to the Scheduled Caste community and as per conditional patta, the original assignee should not encumber or alienate the property to any other upper community people, but the father of the petitioner, who belong to Hindu Valaiyar Community purchased the property vide Doc.No.496/1978. Hence the Revenue Divisional Officer vide proceedings in Na.Ka.No.15407/1996/ A1 dated 26.10.1996 resumed back the land to the Government and the same was confirmed by the District Revenue Officer, Coimbatore, vide proceedings in Na.Ka.2967/2012/C1 dated 29.03.2012. The petitioner challenged the same in W.P.No.4215/2015 and this Court ordered fresh enquiry.

3.1 As directed by this Court, the second respondent conducted fresh enquiry, during which, it was found from the records that the property is a conditional patta land and the assignee as well as the original owner was



W.P.No.32880 of 2023

one Rangan, who belong to Scheduled Caste community. The said Rangan sold the property to one Perumal who also belonged to Schedule Caste community and thereafter the said Perumal sold the property to one Raman, who is father of the petitioner vide Doc.No.496/1978 and the said Raman belongs to MBC (Hindu Valaiyar) community. As per the conditions of the assignment patta, the land shall be alienated within the Schedule Caste Community and not to other BC, MBC or other communities, but in this case the property sold from SC to MBC community and hence the condition is violated. Therefore the RDO, as per the conditions mentioned in the assignment patta and RSO.15(41) (4) (i & iii) renewed the land and converted the land from patta land to Tharisu land vide proceedings in Na.Ka.No.1540/1996/A1 dated 26.10.1996, which was also confirmed by the DRO vide proceedings dated 22.03.2012.

4 Learned counsel appearing for the petitioner would submit that the respondent failed to consider the fact that pursuant to the sale deed, the petitioner's father was also given patta No.1276, which was entered in passbook, Chitta, Adangal and there is a mutation in his name. The Division



W.P.No.32880 of 2023

Bench also held that without notice and enquiry, if any cancellation is made, it is void as held by the *Hon'ble Supreme Court* in the decisions reported in *2001 8 SCC 443*. The petitioner's father had purchased the property in the year 1978 and in all the revenue records, his name has been entered and hence without issuing any notice to the petitioner's father, the cancellation is non-est.

4.1 Further in the identical circumstances, this Court set aside the order passed by the Revenue Authorities holding that the 10 year condition stipulated in the conditions of assignment was lifted only in the year 1979, whereas the assignment had been made prior to that and therefore the said G.O. is not applicable. In the instant case also, the assignment was made in 1960 and only in the year 1974 i.e. after 10 years of the assignment the property was sold and in fact both the sale deeds are prior to 1979. Therefore the cancellation is not valid. Therefore the petitioner is entitled to transfer of patta in his favour.



W.P.No.32880 of 2023

WEB COPY 5

Learned Additional Government Pleader for the respondents would submit that originally in the year 1960 the subject land was assigned to one Rangan, who belong to Scheduled Caste community and the land is conditional patta land. As per the conditional patta, the assignee should not encumber or alienate the property to any other upper community people. In this case, the original assignee Rangan sold the property to one Perumal, who also belonged to Scheduled Caste community. Thereafter, the petitioner's father Raman, who belonged to MBC community had purchased the property vide Doc.No.496/1978. Therefore the Revenue Divisional Officer, Coimbatore, vide proceedings in Na.Ka.No.1540/1996/A1 dated 26.10.1996 cancelled the assignment and restored the land and reclassified as Tharisu and the District Revenue Officer also confirmed the same vide order dated 22.03.2012.

5.1 Against the order of the District Revenue Officer, the petitioner filed writ petition, in which, this Court ordered for fresh notice and enquiry. Accordingly, notice was issued to the petitioner and on enquiry it came to



W.P.No.32880 of 2023

know that the assignment is a conditional assignment and the land should not be alienated to any upper community and the subsequent purchaser i.e. father of the petitioner is MBC community. Therefore, after detailed enquiry and after affording opportunity to the petitioner, his claim to transfer the patta has been rejected. There is no merit in the claim of the writ petition and hence the writ petition is liable to be dismissed.

6 Heard the learned counsel appearing on either side and perused the materials available on record.

7 Admittedly originally the land was vested with the Government and was assigned to one Rangan belonged to Scheduled Caste community vide proceedings No.D.R.50/70 dated 31.12.1960, who subsequently sold the property to one Perumal, who also belonged to Scheduled Caste community. Thereafter the petitioner's father purchased the land vide Doc.No.496/1978 registered before the SRO, Puliampatti, Erode District. Admittedly the petitioner's father is not a member of the Scheduled Caste community and hence there is clear violation conditions of assignment patta



W.P.No.32880 of 2023

and RSO15(41)(4)(i & iii).

WEB COPY

8 Therefore the Revenue Divisional Officer, Coimbatore, vide proceedings No.Na.Ka.15407/1996/A1, dated 26.10.1996 cancelled the assignment and resumed back the land to the Government. Thereafter the petitioner approached the District Revenue Officer, seeking to transfer the patta in favour of the legal heirs of the deceased father, the subsequent purchaser. The District Revenue Officer, Coimbatore, after enquiry and after verifying the revenue records, came to the conclusion that the petitioner's father, who purchased the assignment land, is not belonged to the Scheduled Caste community and hence there is violation of conditional assignment and therefore rejected the claim of the petitioner.

9 Aggrieved by the same, the petitioner approached this Court and this Court directed the respondents to issue fresh notice and after affording opportunity to the petitioner decide the matter afresh. Thereafter, notice was issued and the petitioner was heard and fresh enquiry was conducted. Finally the second respondent passed the order vide proceedings



W.P.No.32880 of 2023

in Na.Ka.No.7710/2022/B2 dt.06.10.2023, wherein the petitioner's claim was rejected.

10 It is seen that the land is allotted to depressed class and as per the conditions of assignment patta and RSO.15 (41) (4) (i & iii), the land should not be encumbered or alienated to any upper community. In this case it is an admitted fact that the petitioner's father belongs to only MBC and he is non member of Scheduled Caste community. Therefore it is clear that there is violations of conditional assignment.

11 Further the case relied on by the petitioner that neighbouring land owners filed writ petition against the cancellation of assignment patta, and the writ petition was allowed holding that the 10 year condition stipulated in the conditions assignment was lifted only in the year 1979, whereas the assignment had been made prior to that, which is not relevant to the facts of the present case. Here the condition is that the land assigned to depressed class should not be encumbered or alienated to any other upper community. Therefore the facts of that case is not relevant to the facts of the



W.P.No.32880 of 2023

present case.

WEB COPY

12 In view of the above observations, this Court does not find any illegality in the order of the second respondent and there is no merit in the writ petition.

13 Accordingly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

28.06.2024

Index: Yes/No
Neutral citation : Yes/No
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To

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2. The District Revenue Officer, Coimbatore.
3. The Tahsildhar, Mettupalayam, Coimbatore.



WEB COPY



W.P.No.32880 of 2023

P.VELMURUGAN, J.,

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Pre-Delivery Orders in
W.P.No.32880 of 2023 and
W.M.P.No.32514 of 2023

28.06.2024