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W.P.No.36951 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.36951 of 2024
W.M.P.Nos.39898 & 39903 of 2024

Immanuel John
“Keswick”
Orange Grove Road,
Coonoor,
The Nilgiris 643 101.

...Petitioner

Vs

- 1.The Collector,
Nilgiris District.
- 2.The District Revenue Officer,
Nilgiris, Nilgiris District.
- 3.The Revenue Divisional Officer,
Coonoor, Nilgiris District.
- 4.The Tahsildar,
Kothagiri Taluk, Nilgiris District.
- 5.The Sub Registrar,
Kothagiri, Kothagiri Taluk,
Nilgiris District.
- 6.Padmini @ Gowri



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7.B.Manoharan

8.M.Mohan

9.K.Krishnan

...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, calling for the records of the second respondent order dated 10.7.2024 issued in proceedings No.U2/5727/2020 and quash the same and consequently direct the fourth respondents herein to pass orders restoring petitioner patta No.3649 relating to petitioner ownership of 30 cents of land comprised in S.No.741/1B in Nadhuhatty village Kotagiri Taluk Nilgiris District within a time frame that may be stipulated by this Honourable court in the light of order dated 1.3.2018 in O.S.No.13/2014 Honourable district Munsif court Kotagiri as confirmed in order dated 16.8.2019 in Appeal suit No.21/2018 by the Sub ordinate Judge at Coonoor.

For Petitioner : Mr.D.Daniel

For Respondents : Mr.A.Selvendran
Special Government Pleader
(For R1 to R5)

ORDER

Despite orders of Civil Court as well as the orders of this Court, the petitioner's request for restoration of patta has been rejected by the fourth respondent, therefore, the petitioner is before this Court, seeking



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issue of certiorarified mandamus to quash the order of the fourth respondent dated 10.07.2024 and consequently restore patta No.3649 in favour of the petitioner. It would be necessary to set out the facts which have culminated in filing of this Writ Petition in order to appreciate the petitioner's grievance.

2.It is the case of the petitioner that he is the owner of an extent of 30 cents of land in old survey No.664/1 and R.S.No.741/1 part in Nadhuhatty Village, Kotagiri Taluk, Nilgris District. He had purchased the property under a registered sale deed dated 30.09.2008 from one N.M.Kullan. The petitioner would submit that after his purchase the property was subdivided as 741/1B and individual patta No.3649 was issued by the fourth respondent, Tahsildar, Kotagiri.

3.This issue of patta was challenged by the fifth respondent before the third respondent vide her letter dated 05.01.2011. The patta got transferred into her name despite the petitioner's objection. Thereafter, 5th respondent executed settlement deed dated 27.07.2011 in respect of 27 cents of land in favour of her son. However, 3 cents of land was not mentioned either in the chitta or patta in the petitioner's name. The



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petitioner challenged the said order by filing an appeal to the second respondent which was not disposed of. The settlement deed and cancellation of patta was challenged in O.S.No.13 of 2014 on the file of the District Munsif Court, Kotagiri. The learned District Munsif had granted relief of declaration of title and injunction, but however, the suit for declaring the settlement deed registered as document No.1299 of 2011 and the other reliefs were denied. The same was taken up on appeal by the petitioner and the same was dismissed and the judgment and decree of the trial Court was confirmed.

4.Since patta was not granted, he was advised to approach this Court and accordingly had filed W.P.No.32858 of 2019 before this Court seeking a direction to the second respondent to consider the appeal and pass orders. As the appeal was also pending at that point of time this Court by order dated 18.02.2021 was pleased to direct the second respondent to dispose of the appeal filed on 28.10.2013 through a speaking order within a period of twelve weeks.

5.Since, the order was not complied with, the petitioner had filed contempt petition No.1891 of 2024 before this Court. At this juncture the



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second respondent had passed the order dated 26.08.2021 rejecting the appeal dated 28.10.2013. The petitioner filed W.P.No.25784 of 2021 challenging the said order and sought for quashing the order of the second respondent. In the above Writ Petition this Court was pleased to pass the following order:-

5. On a perusal of the materials available on record, it is seen that admittedly, the writ petitioner filed the suit in O.S.No.13 of 2014 and the said suit was dismissed, however, the trial Court has recognised his title as joint owner and liberty has also been given for getting his share in the manner known to law and without noting the same, the impugned order has been passed by the 2nd respondent, since the judgment and decree passed in O.S.No.13 of 2014 was challenged by the defendants therein and also the finding given by the Civil Court regarding the share in the property. Under these circumstances, the impugned order passed by the 2nd respondent dated 23.08.2021 in proceeding No.U5/5727/2020 is liable to be set aside and the patta exclusively granted in the name of the private respondents excluded the name of the petitioner which is also liable to be set aside. The Revenue Authorities are directed to include the petitioner's name in the patta, however, the



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parties are directed to workout their remedy regarding the share only in the manner known to law before the civil Court.

6.Once again the respondents did not act upon the orders of the Court and Contempt Petition was filed. Challenging this order, the respondents had filed Writ appeal No.1669 of 2024. This Court had dismissed the same at the admission stage itself on the ground it was lacking in merits. Thereafter, the respondent had passed the impugned order. Challenging the same, the petitioner is before this Court.

7.Heard the learned counsels on either side.

8.A perusal of the impugned order would indicate that the second respondent has proceeded to consider the report of the Tahsildar that the sub divisions had to be removed and thereafter included the petitioner as a joint pattatarar in respect of old survey No.664/1. The sale deed which is being executed in favour of the petitioner on 30.09.2008 is with reference to an extent of 30 cents comprised in old survey No.664/1 and R.S.No.741/1 which formed part of a larger extent of land. Thereafter the



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property has been subdivided and patta has been issued in the name of the petitioner in respect of survey No.741/1B.

9.On 27.07.2011 the settlement deed which plaintiff submit is a fraudulent one came to be executed by one Padmini. She traced her title to Bellie Gowder. In a family partition, the schedule mentioned property is stated to be allotted to Bellie Gowder's son Selai Gowder and after his death his only son N.S.Bhojan became the owner of the property. N.S.Bhojan has settled the property in favour of the settlor, Padmini alias Gowri. On the basis of this settlement deed, application for cancellation of patta has been sought for.

10.The petitioner herein had filed a suit in O.S.No.13 of 2014 on the file of the District Munsif, Kotagiri. The said suit was filed for declaration of the petitioner's title, to declare the settlement deed executed by the first defendant in favour of the second defendant as null and void. This suit was decreed partly in favour of the petitioner with reference to the relief of declaration of title and injunction. The said decree was not challenged in appeal by the defendants. It was the petitioner who had taken up the matter in appeal in A.S.No.21 of 2018



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against the disallowed portion. Further in W.P.No.25784 of 2021 the petitioner had sought for the issue of a certiorarified mandamus to call for the records of the second respondent relating to his order dated 15.11.2023, consequently directing the respondents to pass orders and restore the petitioner's patta No.3649 in S.No.741/1B. An order came to be passed on 15.11.2023, where in it has been observed as follows:

5. On a perusal of the materials available on record, it is seen that admittedly, the writ petitioner filed the suit in O.S.No.13 of 2014 and the said suit was dismissed, however, the trial Court has recognised his title as joint owner and liberty has also been given for getting his share in the manner known to law and without noting the same, the impugned order has been passed by the 2nd respondent, since the judgment and decree passed in O.S.No.13 of 2014 was challenged by the defendants therein and also the finding given by the Civil Court regarding the share in the property. Under these circumstances, the impugned order passed by the 2nd respondent dated 23.08.2021 in proceeding No.U55727/2020 is liable to be set aside and the patta exclusively granted in the name of the private respondents excluded the name of the petitioner which is also liable to be set aside. The Revenue Authorities are directed to include the petitioner's name in the



patta, however, the parties are directed to workout their remedy regarding the share only in the manner known to law before the civil Court.

11.This order which is taken up on appeal by the defendants namely 1.Padmini @ Gowri, 2.B.Manoharan, 3.M.Mohan and 4.K.Krishnan in W.A.No.1669 of 2024. The Hon'ble Division Bench of this Court by order dated 13.06.2024 was pleased to dismissed the appeal. Despite this order, the orders of civil court declaring the petitioner's title to the property and the report of the Tahsildar, the impugned order has been passed by the second respondent. It is nothing but a total non application of mind on the part of the second respondent. Therefore, the District Revenue Officer shall restore the petition and issue patta in respect of survey No.741/1B. Further the suit has been filed in respect of survey No.741/1B and the petitioner's title to this survey number has been declared. Therefore, the second respondent has exceeded his brief by cancelling the subdivisions which was not even the issue before it. Since, the petitioner's title has been declared by a civil Court and the said order has not been challenged by the sixth and seventh



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respondents herein who are defendants 1 and 2 therein, the Writ Petition is allowed, the order dated 10.07.2024 passed by second respondent/DRO in his proceeding No.U2/5727/2020 is set aside. The second respondent shall delete the subdivisions and shall restore the survey numbers together with the subdivisions and the third respondent shall issue patta on or before 12.12.2024 for reporting compliance on 13.12.2024.

12.Accordingly, the Writ Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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