



W.P.(MD)No.6401 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 14.03.2024

DELIVERED ON : 28.03.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.6401 of 2021

and

W.M.P.(MD)Nos.5001 and 5227 of 2021 of 2021

Serenjevi Sreenivasan

... Petitioner

Vs.

1.The Additional Commissioner of
Land Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The District Collector,
Sivagangai District.

3.The District Revenue Officer,
Sivagangai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent proceedings Proc.No.G2/23291/2009,



W.P.(MD)No.6401 of 2021

dated 24.02.2021 and quash the same and consequently direct the respondents to restore the petitioner's patta.

For Petitioner : Mr.M.Vijayarathinam

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The Writ Petition is directed against the order dated 24.02.2021 passed by the first respondent and for directions to the respondents to restore the petitioner's patta.

2. It is not in dispute that an extent of 1.06.5 hectare in S.No.153/1 and an extent of 0.93.0 hectare in S.No.153/3 of Oonjanai group Village, Devakottai Taluk, Sivagangai District, was granted assignment in favour of one Sakthivel as per the proceedings of the Special Deputy Tahsildar, in D.R.No.240/1977, dated 26.11.1968, that subsequently since the assignment land was not brought into cultivation, the Additional Collector had cancelled the said assignment vide order dated 26.12.1982 and that the Special Commissioner and the Commissioner of Land



W.P.(MD)No.6401 of 2021

Administration, in the appeal, has granted further period of two years to bring the assignment land under cultivation and thereby confirmed the original assignment, as per the proceedings dated 23.12.1986.

3. The case of the writ petitioner is that he purchased an extent of 2.65 acres in S.R.No.153/1 and 2.30 Acres in S.R.No.153/3 totally 4.95 Acres vide sale deed dated 21.11.2005 from one Alagappan, who in turn purchased the said property from Sakthivel vide unregistered sale deed dated 24.06.1988, that the patta in respect of the said property was transferred in the name of the petitioner and since the purchase, the petitioner has been in peaceful possession and enjoyment of the property, that the petitioner has been paying kist for the said property, that the petitioner is having fishery pond in the suit property, that the said Sakthivel filed a petition before the Sub-Collector, Devakottai stating that as if the property in S.No.s.153/1 and 153/3 of Unjanai Village was wrongly included in the petitioner's patta and requested the authorities to cancel the patta in favour of the petitioner and also requested to restore the patta in his favour, that the petitioner has also appeared before the Sub-Collector and produced all the relevant original documents, that the



W.P.(MD)No.6401 of 2021

Sub-Collector, after enquiry, dismissed the petition filed by Sakthivel, vide order dated 23.10.2008 mainly on the ground that the said Sakthivel has violated the special condition as per RSO 15(3) and 15(12), that the Sub-Collector has also cancelled the patta granted in favour of the petitioner on the ground that the title of Sakthivel is in question, that the said Sakthivel preferred an appeal before the District Revenue Officer, Sivagangai, that the District Revenue Officer has dismissed the appeal vide proceedings dated 14.08.2009, that the said Sakthivel aggrieved by the dismissal has preferred a revision before the first respondent, that the first respondent has also confirmed the order of the Sub-Collector, Devakottai, that since the petitioner was a bonafide purchaser and enjoying the property, the revenue authorities without considering the above, has passed orders and the same was confirmed by the first respondent and that therefore, the petitioner was constrained to file the writ petition, challenging the order of the first respondent.

4. The learned Counsel for the petitioner would submit that since market value was paid to the Government, the assignee need not get any prior permission from the authorities to sell the property, that since the



W.P.(MD)No.6401 of 2021

property was purchased for valuable consideration, the assignee need not to bring the land under cultivation, that the unregistered sale deed executed by the said Sakthivel was a mistake and the petitioner was ready to rectify the said mistake, by paying necessary fees and that since the petitioner came to know that the third respondent is likely to initiate action against the petitioner, he was constrained to challenge the order passed by the first respondent.

5. The learned Government Advocate would reiterate his contentions raised in the counter affidavit filed by the first respondent. The learned Government Advocate would mainly contend that the petitioner has earlier approached the Sub-Collector, Devakottai and after enquiry, an order came to be passed on 23.10.2008, that the petitioner has preferred an appeal before the District Revenue Officer – third respondent and the same was dismissed on 14.08.2009 and that the petitioner has not chosen to challenge the order passed by the third respondent, but on the other hand, he has challenged the order passed by the first respondent in the revision filed by the said Sakthivel.



W.P.(MD)No.6401 of 2021

6. But as rightly contended by the learned Counsel for the petitioner, the authorities while cancelling the assignment given to the said Sakthivel, consequently cancelled the patta issued in favour of the petitioner and hence, he has challenged the order passed by the first respondent. It is the specific case of the Government authorities that the said Sakthivel was assigned the property in dispute with conditions and that since the said Sakthivel has violated the assignment conditions, the assignment came to be cancelled. More importantly, the said Sakthivel has appealed to the Sub-Collector to cancel the patta in favour of the petitioner and restore the patta of the assignment land to his name.

7. It is pertinent to note that the said Sakthivel has questioned and disputed the sale deeds in favour of Alagappan and the sale made by the said Alagappan in favour of the petitioner. As already pointed out, Alagappan has claimed ownership on the basis of the alleged unregistered sale deed executed by the said Sakthivel. As already pointed out, since the assignment given to the said Sakthivel was cancelled and the land was restored in the revenue records as Government Poromboke, consequently they have cancelled the patta



W.P.(MD)No.6401 of 2021

issued in favour of the petitioner. As rightly pointed out by the learned Government Advocate, in the impugned order, the first respondent has found fault with the Deputy Tahsildar, who issued patta in favour of the petitioner, as he has not properly verified the records nor conducted any enquiry and that the patta transfer was effected without adopting due procedure.

8. It is pertinent to mention that since the assignment to the said Sakthivel itself was cancelled, the writ petitioner who is claiming title through Alagappan, who in turn is claiming title through the said Sakthivel, cannot claim any ownership, nor can seek restoration of patta in his favour. As rightly contended by the learned Government Advocate, the petitioner being a subsequent purchaser cannot claim superior title than that of the original owner. It is not the case of the petitioner that he has been claiming ownership over the property in dispute not through the said Sakthivel, but through some other source.

9. Considering the above, the impugned order passed by the first respondent cannot be found fault with. If the petitioner is still having



W.P.(MD)No.6401 of 2021

any grievance, he is at liberty to approach the competent civil Court.

Hence, this Court concludes that the writ petition is devoid of merits and the same is liable to be dismissed.

10. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

28.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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W.P.(MD)No.6401 of 2021

K.MURALI SHANKAR,J.

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PRE-DELIVERY ORDER MADE IN

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