



W.P(MD)No.6757 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6757 of 2020

and

W.M.P.(MD)Nos.6138 & 6139 of 2020

D.Sasikala

... Petitioner

Vs.

1.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai-5.

2.The District Collector,
Theni District,
Theni.

3.The District Revenue Officer,
District Collectorate,
Theni District.

4.The Revenue Divisional Officer,
Thamaraikulam,
Periyakulam,
Theni District.

5.The District Registrar,
Periyakulam,
Theni District.

6.The Sub Registrar,
Theni District,



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Theni.

7. The Tahsildar,
Theni,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the 3rd respondent in Na.Ka.No.12605/2009/Aa1 dated 20.10.2014 and subsequent order passed by the 7th respondent vide his proceedings in Na.Ka.No.4779/2019/A3 dated 29.11.2019, quash the same partly in for far as the petitioner's land in survey No.748/1C and 748/2A to an extent of 7 cents and 68 sq.fts situated at Koduvilarpatti Village, Theni District as illegal and consequently forbear the 4th respondent from cancelling the assignment and resuming the petitioner's land in survey NO.748/1C and 748/2A to an extent of 7 cents and 68 sq fts situated at Koduvilarpatti Village, Theni District and to direct the 7th respondent to issue patta in the petitioner's name for the petitioner's land in Survey No. 748/1C and 748/2A to an extent of 7 cents and 68 sq.fts situated at Kodivilarpatti Village, Theni District.

For Petitioner : Mr.A.Jayaramachandran

For Respondents : Mr.K.S.Selvaganeshan
Additional Government Pleader

ORDER

Heard both sides.

2. The petitioner purchased 7 cents of land in the petition mentioned survey numbers in Koduvilarpatti Village in Theni District from one



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Balamurugan vide sale deed dated 06.08.2019. The District Revenue Officer, Theni had sent the impugned communication dated 20.10.2014 to the District Registrar (Periyakulam) calling upon him not to register any document pertaining to the Survey Nos.746, 747, 748 & 749 in Koduvilarpatti Village because the Government is proposing to resume the lands since the assignment conditions had been breached by the assignees. The petitioner's vendor filed the writ petition before this Court and obtained interim stay of the said communication and on the strength of the interim order, sold 7 cents of land in favour of the petitioner. Thereafter, he conveniently withdrew the writ petition. Even though the sale deed had been handed over to the petitioner, after registration the petitioner is in a tight spot. In view of the impugned communication, she cannot alienate the property. She is also not in a position to obtain patta. That is why, she had filed the present writ petition challenging the impugned communication issued by the District Revenue Officer, Theni.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.



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4. The Tahsildar, Theni has filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. It is pointed out that the Government assigned the lands to the landless poor in Koduvilarpatti Village before 1973. The assignees could not have alienated the assigned lands without getting permission from the jurisdictional RDO. Since the assignment condition had obviously been violated, the Government proposed to cancel the assignment and resumed the lands. That is why, since this proposal is under active consideration, in order to protect the rights of the third parties, the impugned communication came to be issued. The learned Additional Government Pleader called upon this Court to sustain the same and dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. The registering authority is bound by the statutory provisions contained in the Registration Act, 1908. The statutory authority cannot be restrained from discharging his statutory function except in the manner known to law. Section 22A & B of the Registration Act contains embargo on the registration of certain document. If the jurisdiction in question falls within the prohibitory sweep of Section 22A & B of the Act, then, the



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registering authority will be justified in refusing registration. That is a call which has to be taken by the registering authority. The District Revenue Officer is not superior to the registering authority in the administrative hierarchy. The District Revenue Officer does not have any inherent powers. Any action of an administrative authority has to be justified with reference to some statutory provision. In the counter affidavit, no statutory provision has been cited which could validate the impugned communication. On the other hand, the issue raised in the writ petition is no longer *res integra*. A learned Judge of this Court vide order dated 07.04.2010 in W.P.(MD)Nos.2380 of 2010 etc., had quashed a similar communication issued by the jurisdictional Tahsildar in respect of the very same survey numbers. It was held therein that even if the assignment terms and conditions had been violated and the assignment itself deserves to be cancelled, the jurisdictional Tahsildar would not have the jurisdiction to direct the registering authority not to register the document when it was presented for registration. It was observed that till the assignment is cancelled or set aside, the parties concerned have every right to execute the documents in favour of the third parties. What applies to the communication issued by the Tahsildar will equally apply to the communication issued by the District Revenue Officer also. I have no hesitation to hold that the impugned communication has been issued by an authority who lacks the competent or



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jurisdiction to issue the same.

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6. In this view of the matter, the impugned communication is set aside. As regards the issuance of patta, the petitioner is permitted to submit a fresh application before the 7th respondent and the 7th respondent is directed to hold an enquiry and pass an appropriate order on merits and in accordance with law.

7. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

04.01.2024

Index : Yes / No
Internet : Yes/ No
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Periyakulam,
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Theni District,
Theni.

7.The Tahsildar,

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G.R.SWAMINATHAN, J.

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