BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7050 of 2024

Malleswari Nayagam ... Petitioner

Vs.

1. The Collector,
Dindigul District,
Thiagi Subramania Siva Malihai,
Velu Nachiyar Valaham, Chettinaickenpatti,
Dindigul – 624 004.

2. The District Revenue Officer,
Dindigul District,
Thiagi Subramania Siva Malihai,
Velu Nachiyat Valaham,
Chettinaickenpatti, Dindigul – 624 004.

3. The Sub Collector – Revenue Divisional Officer,
Kodaikanal Circle,
Kodaikanal – 624 101. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned notice in Na.Ka.En.710/2023/A2 dated 28.12.2023 on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to restore the Patta in the name of the petitioner.

For Petitioner : Mr.K.Sharath Chandran
For Respondents : Mr.K.S.Selvaganesan,
Additional Government Pleader.

* * *

O R D E R

Heard both sides.

2. The petitioner purchased the petition mentioned property vide sale deed dated 05.10.2001. The sale took place under the aegis of the High Court. Patta was also subsequently issued in favour of the petitioner. It was cancelled by the Revenue Divisional Officer, Kodaikanal without notice. Challenging the same, the petitioner filed an appeal before the District Revenue Officer, Dindigul. The appeal was dismissed. Challenging the same, the petitioner filed W.P.(MD)No.11841 of 2023. The writ petition was allowed by me on 12.05.2023. The matter was remitted to the file of the Revenue Divisional Officer, Kodaikanal. The petitioner's son appeared before the Revenue Divisional Officer, Kodaikanal on 06.06.2023. Thereafter, the impugned memo dated 28.12.2023 was issued calling upon the petitioner to produce the following four documents:-

a) D.K.T.No.172/82 dated 18.09.1978 in the name of Vijayarajan.

b) Order dated 18.06.1998 passed by the Madras High Court in W.P.No.12437 of 1997 etc.

c) ASO communication bearing Na.Ka.No.17264/94 on the file of ASO, Madurai.

d) Communication bearing No.25211/1999/D1 dated 22.10.1999 on the file of the District Collector, Dindigul.

3. It is seen from the materials on record that the documents 3 and 4 are very much available on the file of the Revenue Divisional Officer, Kodaikanal. There is a reference to these documents in the earlier proceedings. Therefore, calling upon the petitioner to produce them is a vexatious exercise. Likewise, the petitioner cannot be called upon to produce document No.1 D.K.T.No.172/82 dated 18.09.1978 in the name of Vijayarajan. The petitioner cannot be expected to have the original. This is because the petitioner purchased the property from the Administrator appointed by the High Court in the year 2001. In fact, in the earlier proceedings, there is reference to issuance of patta in favour of Vijayarajan. The genuineness of the said documents cannot be questioned. I do not know as to why the Revenue Divisional Officer wants copy of the order dated 18.09.1978. I am more than satisfied that instead of passing order on merits and in accordance with law, the Revenue Divisional Officer, Kodaikanal is dragging on the matter.

4. While passing an order, the third respondent cannot ignore the precedents of this Court. My attention is drawn by the learned counsel appearing for the petitioner to the order dated 22.02.2024 in W.P.(MD)No.16587 of 2023. In the said order, I had held as follows:-

> "7. It is too late for the respondents to contend that the assignment itself is liable to be cancelled. Admittedly, the assignment was made way back in the year 24.11.1981. Of course in the sale deed dated 27.11.2006 executed in favour of the petitioner, the recital reads that the property was a self-acquired property of the vendor. Erroneous recital in the sale deed cannot make any difference. The assignment order admittedly restrained the assignee from making alienation only for a period of ten years. In this case, alienation took place after twenty five years.
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> 8. It is true that in the Revenue Standing Order, there is stipulation that the assigned land cannot be alienated without the permission of the jurisdictional Revenue Divisional Officer. In this case, the assignee had sold the property without obtaining such prior permission. But on that score the authority could not have cancelled the patta. This is for more than one reason. Permission was actually granted on 18.08.2008. Thus whatever lacuna was attributable to the transaction had been set right. In any event, patta was mutated in favour of the petitioner on 19.10.2009. The Hon'ble Division Bench of Madras High

Court in the decision reported in ***(2010) 5 LW 289 (C.Tirumalai Gounder Vs The State of Tamil Nadu)*** had held that if the authority had subsequently effected mutation in the revenue record in favour of the purchaser, the fact that permission was not obtained from the jurisdictional Revenue Divisional Officer cannot be a ground for cancelling the patta. In any event, the fact remains that the authorities subsequently granted permission.

9. The authority made the assignment in favour of Navaneethammal. After having kept silent for close to 40 years, they could not have acted to the prejudice to the subsequent purchaser. When the petitioner purchased the property, he was under genuine and bona fide impression that the vendor was the absolute title holder of the property. The respondents cannot by their inaction cause prejudice to the petitioner. The impugned order cannot be justified. It is set aside. This writ petition stands allowed. The respondents are directed to make corresponding changes in the revenue records by incorporating the petitioner's name as pattadar in respect of the petition-mentioned land. No costs. Consequently, connected miscellaneous petition is closed."

5. The learned counsel appearing for the petitioner states that there is nothing more to be furnished from his end. The third respondent

shall pass an appropriate order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The order impugned in this writ petition is set aside. This writ petition is allowed on these terms. No costs.

21.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

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   Dindigul District, Thiagi Subramania Siva Malihai,
   Velu Nachiyar Valaham, Chettinaickenpatti,
   Dindigul – 624 004.

2. The District Revenue Officer,
   Dindigul District,
   Thiagi Subramania Siva Malihai, Velu Nachiyat Valaham,
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3. The Sub Collector – Revenue Divisional Officer,
   Kodaikanal Circle, Kodaikanal – 624 101.

G.R.SWAMINATHAN,J.

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