



W.P(MD)No.14782 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14782 of 2020

and

W.M.P.(MD)Nos.12441 and 12439 of 2020

M.Lalithkumar

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Thanjavur District.

2.The Revenue Divisional Officer,
Thanjavur, Office of the RDO,
Collectorate, Thanjavur District.

3.The Tahsildar,
Budalur Taluk,
Thanjavur District.

4.Daniel Educational Social Charitable Trust,
Represented by its President,
Door No.85/26, 3rd Cross, Arulananda Nagar,
Thanjavur Town, Thanjavur.

5.The Sub Registrrr,
Boothalur.

... Respondents

*(R5 is suo motu impleaded vide order dated
05.11.2020 in W.P.(MD)No.14782 of 2020 by
SVNJ).*



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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 of the proceeding in patta No.3930 dated 04.06.2020 on the file of the 3rd respondent and to quash the same as illegal and without jurisdiction and to direct that the pata be restored to the name of the original owner i.e., the petitioner herein as recommended by the 3rd respondent vide his order dated 21.07.2020 in Na.Ka.2122/2020/A3.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.T.Vilavan Kotahi,
Addl. Govt. Pleader for R1 to R3 & R5.
Mr.C.Hitheshkumar for R4.

ORDER

Heard both sides.

2.The writ petitioner herein purchased 20 ares (49 cents) of land in S.No.43/22A, Sengipatti Vilalge, Budalur Taluk from one Jeyaraman and Ramalingam vide sale deed dated 09.06.2010 (Document No.1288/2010) on the file of the Sub Registrar, Budalur. Patta in respect of the said land stood in the name of Jeyaraman. Copy of the patta has also been enclosed in the typed set of papers. Whiles, on 04.06.2020, the Tahsildar, Budalur issued patta in



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respect of the said land in favour of the fourth respondent. The fourth respondent herein had also purchased the very same property vide sale deed dated 09.02.2012 from one Nagoor Hanifa (Document No.288/2012). During the relevant time, the patta reflected the name of Kalaimagal Sabha. Enquiry was conducted based on the application submitted by the fourth respondent. Kalaimagal Sabha made it clear that they have no claim over the said property. Therefore, the name of Kalaimagal Sabha was deleted and patta came to be issued in favour of the fourth respondent on 04.06.2020. When the petitioner became aware of the same, he lodged complaint. The Tahsildar, Budalur after holding enquiry probably realized that something was seriously amiss and he recommended restoration of the position that prevailed originally. Proposal to this effect was submitted before the Revenue Divisional Officer, Thanjavur vide letter dated 21.07.2020. Seeking implementation of the said recommendation and for issuance of patta in his name, the present writ petition came to be filed.

3.The learned counsel 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 grant relief as prayed for.



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4.The learned counsel for the fourth respondent submitted that the impugned patta transfer order does not warrant interference. He pointed out during the relevant time, patta stood in the name of Kalaimagal Sabha. Kalaimagal Sabha made it clear that they have no stake in the matter. The fourth respondent purchased the petition mentioned property from one Nagoor Hanifa and the said Nagoor Hanifa had purchased the property from one Lakshmanan. From a reading of the materials on record, it indicates that both the parties claim title from a common source. The learned counsel for the fourth respondent therefore called upon this Court to relegate the petitioner to move the jurisdictional Civil Court for relief. He submitted that the writ petition deserves to be dismissed.

5.On the other hand, the learned Additional Government Pleader for the official respondents submitted that the writ petitioner's case deserves acceptance. He produced copy of the written instruction given by the Tahsildar, Budalur vide letter dated 09.01.2024. He called upon this Court to allow the writ petition as prayed for.

6.I carefully considered the rival contentions and went through the materials on record. One aspect of the matter deserves to be taken note of.



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Patta transfer was made in favour of the fourth respondent on 04.06.2020. The entire nation was under lockdown then. The pandemic was at its peak. I fail to understand as to how patta transfer order could have been made in such circumstances.

7. Be that as it may, let me examine the issue on merits. As already noted, the petitioner purchased the petition mentioned property vide registered sale deed dated 09.06.2010 from the incumbent pattadar and his brother. On the other hand, the vendor of the fourth respondent namely, Nagoor Hanifa did not have any patta in his favour. The said Nagoor Hanifa in turn had purchased the property from one Lakshmanan. Copy of the sale deed executed by Lakshmanan in favour of Nagoor Hanifa on 29.04.2011 has been enclosed in the typed set of papers. It does not anywhere indicate that Lakshmanan is tracing his title from Jeyaraman. It only states that there was an oral partition between his father / Rajagopal Udayar on the one hand and his siblings on the other. The learned counsel for the fourth respondent wants this Court to assume that Jeyaraman and Ramalingam were siblings of Rajapogal. However, there is no material to warrant such an assumption. On the other hand, the learned Additional Government Pleader would point out that S.No.43/22 originally measured an extent of 67 cents. Out of this 20, cents was acquired



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for road purposes. The said survey number was sub-divided into S.No.43/22A and 43/22B. The case on hand pertains to S.No.43/22A. Jeyaraman and Ramalaingam had sold 0.27.0 ares in S.No.43/14 in favour of Lakshmanan, S/o.Kannan vide document bearing No.120/2007. Vide Document No. 1288/2010, said Jeyaraman and Ramalingam had sold 0.20.0 area (47 cents) in favour of the writ petitioner. Whiles, Lakshmanan had sold the land in S.No. 43/22 measuring 47 cents in favour of Nagoor Hanifa vide sale deed dated 29.04.2011. *Prima facie*, it appears that Lakshmanan did not have any title to sell the petition mentioned land in favour of Nagoor Hanifa and Nagoor Hanifa could not have conveyed any title in favour of the fourth respondent. I stop here as it would not be safe to go into the issue at length in writ proceeding. In any event, mutation of patta in favour of the fourth respondent was rightly recommended to be undone by the third respondent. To reiterate, the vendor of the fourth respondent did not have any patta in his favour. The title derived by Nagoor Hanifa / fourth respondent's vender also appears to be highly doubtful. That is why, the third respondent rightly recommended that the revenue record should go back to the original position. The original position reflected the name of Jeyaraman. I, therefore, direct the second respondent to implement the recommendation made by the third respondent. The patta transfer made in favour of the fourth respondent is set aside.



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8.The parties now will go before the second respondent. The second respondent will hold enquiry on 19.02.2024 at 03.00 pm. The petitioner will not receive any notice. The second respondent is however directed to intimate the fourth respondent about the holding of enquiry. After going through the entire materials on record, the second respondent will decide in whose favour the patta in respect of the petition mentioned land should be issued. Final order on merits and in accordance with law shall be passed by the second respondent within a period of eight weeks thereafter. I make it clear that the observations made in this writ petition are only for the purpose of giving disposal to this writ petition and they shall not be taken as final findings of fact.

9.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 19.01.2024.



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G.R.SWAMINATHAN, J.

ias

To:-

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Office of the District Collector,
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Thanjavur, Office of the RDO,
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