



W.P(MD)No.15388 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15388 of 2020

and

W.M.P.(MD)Nos.12921 and 12922 of 2020

S.Ganesan

... Petitioner

Vs.

1.The District Revenue Officer,
Tiruchirappalli,
Trichy District.

2.The Sub Collector,
Musiri,
Trichy District.

3.S.Manikandan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling the records relating to the Proceedings of the 2nd Respondent made in Na.Ka.No.A4/4046/2019 dated 17/02/2020, and the proceedings of the 1st Respondent made in Na.Ka.No.A2/8717/2020 dated 12/09/2020.



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W.P(MD)No.15388 of 2020

For Petitioner : Mr.R.Murali,
For Mr.K.Govindarajan.

For Respondents : Mr.M.Senthil Ayyanar,
Government Advocate for R1 & R2.
Mr.N.Anandakumar for R3.

ORDER

Heard both sides.

2.The petition mentioned site little over measuring 1.5 cents was assigned in favour of the writ petitioner on 23.06.2017. It appears that the petitioner had to sell the same in favour of one Rajendran for the purpose of raising funds. The learned counsel for the petitioner states that in the petitioner's locality, when a person seeks credit facility, there is an insistence for effecting conveyance. The petitioner's counsel states that the petitioner never had any intention to part with the property or breach the assignment terms and conditions. In any event, after settling the loan, the petitioner had got back the property vide registered sale deed dated 20.11.2019. In the meanwhile, a disgruntled relative complained to the Revenue Divisional Officer, Musiri in this regard. The Sub-Collector, Musiri vide order dated



W.P(MD)No.15388 of 2020

17.02.2020 cancelled the assignment made in favour of the petitioner.

Challenging the same, the petitioner filed appeal before the District Revenue Officer, Tiruchirappalli. The District Revenue Office, Tiruchirappalli vide order dated 12.09.2020 dismissed the appeal. Questioning the same, 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 set aside the impugned orders. He pointed out that the dispute among the family members has since been resolved.

4.The learned Government Advocate for the respondents 1 and 2 submitted that the impugned orders are well reasoned and that they do not call for interference. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It is seen that the third respondent who set the law in motion had since taken back his complaint. He has given a letter before the Revenue Divisional Officer, Musiri for withdrawing his petition. The deed of



W.P(MD)No.15388 of 2020

compromise entered between the parties has also been produced before me. As rightly pointed out by the learned Government Advocate, this cannot have any bearing on the present proceeding. The third respondent cannot be allowed to turn turtle after lodging the complaint. Only in a civil suit or where private rights are alone involved, such compromises are possible and permissible. Of course, certain offences are permitted to be compounded either with or without the leave of the Court under Section 320 of Criminal Procedure Code. Under certain circumstances, the High Court exercising its power under Section 482 of Criminal Procedure Code can quash the prosecution by taking note the compromise entered into between the parties. But the said approach cannot be extended to a case of this nature. I, therefore, reject the contention of the learned counsel for the petitioner founded on compromise between the petitioner on the one hand and the third respondent on the other.

6.It is beyond dispute that the land in question was a natham. It is well settled that on a natham land, the Government has no authority. It belongs to the person who is in occupation and enjoyment. The case of the petitioner is that his forefathers were in enjoyment of the property. The case of the third respondent is that his forefathers were in enjoyment of the property. Even if I assume that one of the claims is false, still Government would not have any role



W.P(MD)No.15388 of 2020

in the matter at all. But then, natham patta should have obtained within certain time limit from the competent authority. In this case, the petitioner / his father failed to do so. That is why, the property came to be classified as unoccupied natham and that enabled the Government to issue assignment order.

7. Though the petitioner was granted only an assignment, I am inclined to take a view that it was made by taking note of his prior possession. It is a fact that before the impugned order was passed by the Sub-Collector, Musiri, the petitioner had repurchased the property. As on date, the land in question stands in the name of the petitioner. The petitioner through his counsel gives an undertaking that without getting NOC from the Revenue Divisional Officer, he will not alienate or encumber the property. The petitioner has also given an explanation as to why the sale deed in favour of Rajendran had to be executed. Taking into account the special facts and circumstances of the case, I accept the said explanation. The petitioner has also enclosed photographs. The petitioner is eking his livelihood as a mason. The extent of land is hardly 1.5 cents. If I sustain the impugned orders, the petitioner will be rendered landless. The Government has introduced a benevolent policy of regularizing the possession of those persons who are occupying unobjectionable poramboke. If I invoke those government orders in favour of the petitioner, the petitioner will have to



W.P(MD)No.15388 of 2020

be given patta. It is also the more so because admittedly, he is in possession of the property in question for the last several years. He had also put up construction. Therefore, it would be monstrous injustice, if the petitioner is rendered roofless or made to vacate the property. It is also seen that the authorities did not take action on their own. It was the third respondent who triggered the entire sequence of events. He had since purchased peace with the petitioner. Taking into account all these aspects, particularly, the fact that the property stood re-vested with the petitioner even before the impugned orders were passed, the impugned orders are set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.01.2024

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

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W.P(MD)No.15388 of 2020



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G.R.SWAMINATHAN, J.

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W.P(MD)No.15388 of 2020

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