

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 22.02.2024**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.16587 of 2023 and**
W.M.P.(MD)No.13872 of 2023

P.Dhandapani

... Petitioner

Vs.

1. The District Revenue Officer,
O/o.the District Revenue Office,
Dindigul District.
 2. The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Kodaikanal, Dindigul District.
 3. The Tahsildar,
O/o.the Kodaikanal Taluk Office,
Kodaikanal, Dindigul District.
 4. The Village Administrative Officer,
Vilpatti Village Panchayat,
Kodaikkandal, Dindigul District.
 5. The Assistant Land Survey and Settlement Officer(South),
O/o.the Addil.Land Survey& Settlement Office(South),
Chennai.
- ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No.Se.Ma.Pa.N 60/2022/ D1 dated 28.03.2023 and



quash the same and consequently directing the respondents to restore the patta in favour of the petitioner in respect of the property comprised in S.No.2435/4 of an extent of 1.28 Hectares situated at Vilpatti village, Kodaikkanal taluk, Dindigul District within the time stipulated by this Court.

For Petitioner : Mr.S.Muthiah
For Respondents : Mr.S.Kameshwaran,
Government Advocate.
* * *

ORDER

Heard both sides.

2. The petitioner purchased 1.28 Hectares of land in survey No.2435/4 at Vilpatti Village from one Navaneethammal vide sale deed dated 27.11.2006. The petitioner thereafter applied to the authority and got the patta also mutated in his favour. While so, the petitioner was informed vide communication dated 20.11.2020 that the Revenue Divisional Officer, Kodaikkanal vide proceedings dated 20.09.2019 had cancelled the patta and restored the original position.

3. A mere look at the copy of the order dated 20.09.2019 would show that even though the petitioner herein(Dhandapani) was mentioned as the pattadar, cancellation took place behind his back. Aggrieved by the same, the petitioner filed an appeal before the District



Revenue Officer, Dindigul. Vide proceedings dated 28.04.2023, the petitioner's appeal was dismissed. Challenging the same, the present writ petition came to be filed.

4. 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 order and grant relief as prayed for.

5. The learned Government Advocate submitted that the impugned orders are well reasoned and they do not warrant interference. It was pointed out that the petitioner's land in question was originally a sarkar poramboke and that it was assigned in favour of Navaneethammal, W/o.Balu Naidu. The assignment was obtained by misrepresentation. Therefore, it was liable to be cancelled. It is further stated that the assigned land can be alienated only after getting permission from the jurisdictional Revenue Divisional Officer. In this case, the sale was made in favour of the petitioner on 27.11.2006 without obtaining such permission. Therefore, on these twin grounds, patta is liable to be cancelled. According to the learned Government Advocate, this writ petition deserves to be dismissed.

6. I carefully considered the rival contentions and went through



the materials on record.

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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.

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.

22.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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7

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