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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20671 of 2022
and
W.M.P(MD)No.19103 of 2023

K.Muthammal ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Tenkasi,
Tenkasi District.

2.The Tahsildar,
Taluk Office,
Sankarankovil,
Tenkasi District.

3.Deputy Inspector of Survey,
Taluk Office,
Sankarankovil,
Tenkasi District.

4.Ganabathichamy

5.Karuppasamy

6.Kottaichamy

7.Subramanian ... Respondents

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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in Na.Ka.Aa9/2690/2022 dated 18.08.2022 and quash the same as illegal and to direct the second respondent to issue Patta to the petitioner.

For Petitioner : Mr.J.Balameenakshi

For Respondents : Mr.N.G.A.Natraj
Government Advocate
for R.1 to R.3

Mr.S.Vignesh for R.4 to R.6

Ms.D.Deepamathi for R.7

ORDER

Heard both sides.

2.The petitioner seeks issuance of patta in her favour in respect of the petition mentioned land. The petitioner made the application on the strength of the sale deed dated 22.12.2021 (Document No.3094/2021 on the file of SRO, Sankarankovil). The petitioner's request was rejected by the Tahsildar, Sankarankovil vide proceedings dated 18.08.2022. Challenging the same, the present writ petition came to be filed.

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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 grant relief as prayed for.

4.The learned Government Advocate appearing for the official respondents submitted that the property was purchased in the name of Ilanthaikulam Swami Vivekananda Charitable Trust and that patta in respect of the land also stood in the name of the trust. Such a land cannot be transferred in favour of the petitioner. It is for this reason, the petitioner's request was rejected. The learned Government Advocate called upon this Court to sustain the impugned order and dismiss the writ petition.

5.The learned counsel appearing for the private respondents supported the stand taken by the petitioner.

6.I carefully considered the rival contentions and went through the materials on record.

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7.It is not in dispute that the land measuring 0.75 HAC comprised in Survey No.71/5 and 84 cents of land in Survey No.71/6 were purchased vide sale deed dated 18.12.1987 for a sum of Rs.4770/- by the seventh respondent in his capacity as president of Ilanthaikulam Swami Vivekananda Charitable Trust. Patta was also issued in the name of the trust. It is stated by the learned counsel appearing for the seventh respondent that the land was purchased entirely out of the own funds of the seventh respondent. It is further stated that the trust in question is not a registered body. The petitioner was the main person and a few other persons wanted to assist him in his charitable activities. Unfortunately, the seventh respondent could not carry out any charitable activity and therefore the office bearers of the said unregistered body passed a resolution on 04.08.2021 for selling the lands. Accordingly, vide sale deed dated 11.08.2021 both the items were sold in favour of the respondents 4 to 6 (Document No.1747/2021). The purchasers from the seventh respondent subsequently executed sale deed dated 22.12.2021 in favour of the writ petitioner.

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8.Sections 22-A and 22-B of the Registration Act, 1908 enable the registering authority to refuse the registration under certain circumstances. The said provisions are as under:

> *"**22-A.Refusal to register certain documents**.— Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:—*
>
> *(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,—*
>
> *(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);*
>
> *(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;*
>
> *(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958) ; or*
>
> *(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995),*
>
> *unless a sanction in this regard issued by the competent*

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authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.

22-B. Refusal to register forged documents and other documents prohibited by law. *- Notwithstanding anything contained in this Act, the registering officer shall refuse to register the following documents, namely:-*

(1) forged document;

(2) document relating to transaction, which is prohibited by any Central Act or State Act for the time being in force;

(3) document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under any Central Act or State Act for the time being in force or any Court or Tribunal;

(4) any other document as the State Government may, by notification, specify."

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The transaction in question will not fall within the scope of either Section 22(A) or Section 22(B) of the Registration Act, 1908. Therefore, one must come to the conclusion that the lands were lawfully transferred by the seventh respondent in favour of the respondents 4 to 6 in the first instance and thereafter by respondents 4 to 6 to the petitioner. The transactions were carried out through the registered instruments. If according to the revenue authority, something illegal had taken place, then registration itself should not have been permitted. The petitioner appears to be a *bona fide* purchaser for valuable consideration. In fact she had not purchased directly from the seventh respondent. She is the second subsequent purchaser. When the sale deed stands in the name of the writ petitioner, then the revenue record should be mutated as a matter of course.

9.I therefore set side the impugned order and direct the second respondent to mutate the revenue record in respect of the petition mentioned lands in favour of the writ petitioner. Of course, if the transactions are subsequently impeached and they are declared as null and void, of course order now passed in favour of the writ petitioner must give way. So long as the sale deed stands in the name of the writ

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petitioner, the petitioner's right to seek mutation of patta cannot be negatived. In this view of the matter, the impugned order is set aside.

10.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

1.The Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2.The Tahsildar,
Taluk Office,
Sankarankovil,
Tenkasi District.

3.Deputy Inspector of Survey,
Taluk Office,
Sankarankovil,
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G.R.SWAMINATHAN,J.

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