



W.P.(MD) No.19533 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19533 of 2024

R.Philip Dev Anand

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Periyakulam,
Theni District.

2.The Tahsildar,
Periyakulam Taluk,
Theni District.

3.K.Muthaiya

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to conduct enquiry on the representation submitted by the petitioner dated 18.10.2023 and consequently, cancel the patta issued in the name of the 3rd respondent in patta No.8995.

For Petitioner :Mr.R.C.Paul Kanagaraj

For R1 & R2 :Mr.D.S.Neduncheziyan
Government Advocate

For R3 : Mr.J.Senthil Kumaraiah



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ORDER

This writ petition has been filed for a Mandamus directing the first and second respondents to conduct an enquiry on the representation submitted by the petitioner dated 18.10.2023 and consequently, cancel the patta issued in the name of the third respondent in patta No.8995.

2.The petitioner has purchased the properties comprised in Survey No.1306 measuring an extent of 1 acre 56 cents and in Survey No.1449/1 measuring an extent of 0.17.5 hectare, 43 cents situated in Devathanapatti Village, Periyakulam, Theni District, SRO Vathalagundu, Dindigul, under a registered sale deed, dated 15.12.2010 executed by N.P.Nagendren, the power of attorney of N.P.Ramalingam. From the date of purchase, the petitioner is in absolute possession and enjoyment of the property. The petitioner has also developed a farm in the aforesaid land by planting trees. While so, one Muthaiah, the third respondent herein claimed to be the owner of the property to an extent of 23 cents, out of total extent of 43 cents in S.No.1449/1, on the basis of a sale deed, dated 09.04.2018.



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3.It is the contention of the petitioner that the third respondent is interfering with his possession and enjoyment of the property and are trying to enter the property to lay fence stone. Therefore, a police complaint was lodged on 27.09.2023 and on the very same day, a complaint was lodged before the DRO under Section 77A of the Registration Act. The petitioner had also filed a suit in O.S.No.81 of 2023 before the Additional District and Sessions Court, Periyakulam, to declare that he is the lawful owner of the property and to declare the sale executed by the legal heir of N.P.Vijaysekar as null and void. The suit is pending the stage of issuance of summons to the defendants. It appears that pursuant to the survey conducted at the request of the third respondent, patta has also issued in favour of the third respondent in S.No.1449/1B in respect of which the petitioner is the absolute owner. Therefore, a representation dated 18.10.2023 had been submitted to the first respondent requesting to take action as against the third respondent and to cancel the patta. The said representation was forwarded by the first respondent to the second respondent and thereafter, there has been no further progress. Therefore, the present writ petition.



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4.The third respondent has filed a counter *inter alia* tracing title to the property to another person and also contending that he is the absolute owner of 23 cents and patta had been mutated in his favour as a result of which, he had requested for survey of his property, which has also been done. The respondents has further submitted that the petitioner, who had filed a suit for declaration has simultaneously preferred an application to cancel the patta without even getting the title declared. Therefore, he sought for a dismissal of the application.

4.Heard the learned counsel appearing on either side.

5.Admittedly, the suit is now pending and the petitioner's request is only for considering his representation, therefore the writ petition is allowed. It is made clear that while passing orders the revenue authorities shall take note of the circular issued by the Additional Chief Secretary, Commissioner of Land Administration, Reference No.K3/27160/2008 dated 13.03.2018. It is made clear that any observation in this writ petition or the order of the revenue authorities shall not be binding on the



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civil Court. The Civil Court shall proceed to dispose of the suit uninfluenced by any of the observations made by this Court or the order passed by the Revenue Authorities. No costs.

24.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

To

1.The Revenue Divisional Officer,
Periyakulam,
Theni District.

2.The Tahsildar,
Periyakulam Taluk,
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P.T.ASHA, J.
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