



W.P.(MD)No.19896 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE N.MALA**

W.P.(MD)No.19896 of 2021

and

W.M.P.(MD)No.16601 of 2021

Selvaraj

...Petitioner

/Vs./

1.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

2.The Tahsildar,
Kovilpatti,
Thoothukudi District.

3.A.Sankaran

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in his proceedings in Ni.mu.A2/1759/2019, dated 23.09.2021 and quash the same.



WEB COPY



W.P.(MD)No.19896 of 2021

For Petitioner : Mr.S.Kumar

For Respondents : Mr.M.Muthumanikkam (R1 & R2)

Government Advocate

Mr.M.P.Senthil (R3)

ORDER

This Writ Petition is filed challenging the order passed by the first respondent in his proceedings in Ni.mu.A2/1759/2019, dated 23.09.2021.

2. The petitioner's vendor purchased the property in S.No.177/5, measuring to an extent of 1.02 acres under sale deed dated 04.02.2008. In pursuance to the sale, patta was transferred in his name. Thereafter, it was subdivided as S.No.177/5A and S.No.177/5B. The petitioner purchased the subject property from his vendor, namely, Thirupathi, under registered sale deed, dated 26.08.2009. The petitioner also obtained patta for the subject property in Patta No.2377, and he was in peaceful possession and enjoyment of the same.



W.P.(MD)No.19896 of 2021

WEB COPY

3. While so, one Rajasekaran colluded with the revenue authorities and obtained patta for the subject property. The petitioner filed an appeal before the first respondent, which was contested by the legal heirs of the said Rajasekaran. On contest, the first respondent allowed the appeal of the petitioner and restored the petitioner's patta. No appeal or revision was filed by the legal heirs of the said Rajasekaran against the order restoring the petitioner's patta.

4. However, the legal heirs of the said rajasekaran interfered with the petitioner's peaceful possession and enjoyment of the property and so, the petitioner was constrained to file a suit in OS No.131 of 2012, on the file of the District Munsif Court, Kovilpatti, for declaration and permanent injunction against the legal heirs of the said Rajasekaran. In the witness statements of the defendants, it was stated that they sold the property to the third respondent on 14.07.2010, and therefore, the third respondent was impleaded as fifth defendant in the suit.

5. The learned District Munsif, Kovilpatti, on contest decreed the



W.P.(MD)No.19896 of 2021

WEB COPY

suit in favour of the petitioner, vide judgment and decree dated 13.02.2015. Aggrieved by the judgement and decree of the learned District Munsif, Kovilpatti, the third respondent along with his vendor preferred an appeal in A.S.No.17 of 2015 on the file of the Sub Court, Kovilpatti. The first appellate Court, vide judgment and decree, dated 15.02.2016, confirmed the judgement and decree of the trial Court. The third respondent along with his vendor, preferred second appeal before this Court in SA(MD)No.458 of 2017. While so, on 12.10.2021, the petitioner received the impugned order of the first respondent, dated 23.09.2021, cancelling the patta issued in his favour and transferring the same in favour of the third respondent. Aggrieved by the impugned order, the petitioner filed the above writ petition for the aforesaid relief.

6. The first respondent filed a counter contending that on enquiry, he came to know that patta was transferred in favour of the petitioner during pendency of the second appeal and therefore, on appeal filed by the third respondent, patta issued in favour of the petitioner was cancelled and patta issued in favour of the third respondent was restored. The first respondent further submitted that as per the Circular of the



W.P.(MD)No.19896 of 2021

Commissioner of Land Administration, Chennai, when title dispute was subjudice before the civil Court, the revenue authorities were forbidden from transferring patta. As the patta was transferred in favour of the petitioner during the pendency of the second appeal, the same was rightly overturned. The first respondent further submitted that the petitioner should be relegated to the alternative remedy of revision before the District Revenue Officer. For all the said reasons, the first respondent prayed for dismissal of the writ petition.

7. The learned counsel for the petitioner submitted that the impugned order was passed on the short ground that patta was transferred in his favour during pendency of the second appeal. The learned counsel further submitted that before cancelling the petitioner's patta, no notice was issued to the petitioner and therefore, the impugned order was vitiated for violation of principles of natural justice. The counsel therefore prayed that the impugned order be set aside.

8. I have heard the learned counsels on either side and I have perused the materials placed on record.



W.P.(MD)No.19896 of 2021

WEB COPY

9. Admittedly, no notice or opportunity of hearing was given to the petitioner before cancelling his patta and restoring the patta in favour of the third respondent. Even from the impugned order of the first respondent, it is seen that there is no whisper about any notice to the petitioner. Therefore, without launching on the merits of the case, I am of the view that the writ petition should be allowed on the short score of violation of the principles of natural justice.

10. In view of the same, the impugned order dated 23.09.2021, cannot be sustained and the same is set aside. The matter is remitted to the first respondent for fresh consideration. It is seen that the second appeal filed by the third respondent and others was dismissed for non-prosecution on 22.06.2023 and therefore, the petitioner is at liberty to bring the said fact to the notice of the first respondent at the time of hearing.

11. In view of the above discussions, the first respondent is directed to issue notice to the petitioner as well as the third respondent



W.P.(MD)No.19896 of 2021

and thereafter pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2024

Index : Yes / No
NCC : Yes / No
Sm

TO:

- 1.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
- 2.The Tahsildar,
Kovilpatti,
Thoothukudi District.



WEB COPY



W.P.(MD)No.19896 of 2021

N.MALA, J.

Sm

Order made in
W.P.(MD)No.19896 of 2021

Dated:
22.11.2024