



W.P.(MD) No.7222 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7222 of 2017
and
W.M.P(MD)No.5690 of 2017

Vellaisamy

.. Petitioner

Vs.

1.The District Revenue Officer,
D.R.O Office,
Collector Office Campus,
Sivagangai District.

2.The Sub Collector,
Sub Collector Office,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

4.Azhagarsamy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order vide office proceedings in



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Na.Ka.C2/17291/2016, dated 27.01.2017 on the file of the 1st respondent office confirming the order of the 2nd respondent office vide office Proceedings in Moo.Mu.A3-4382-2015, dated 18.04.2016 and quash the same as illegal and consequently direct the respondents No.1 to 3 restore the Patta in the name of the petitioner within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanidhi
For R1 – R3 : Mr.B.Saravanan
Additional Government Pleader
For R4 : Mr.K.N.Govardhanan

ORDER

The writ petition is filed seeking to quash the order passed by the 1st respondent, dated 27.01.02017 in and by which he has confirmed the order passed by the 2nd respondent, dated 18.04.2016 and quash the same and direct the respondents 1 to 3 to restore the patta in the name of the petitioner.

2. The case of the petitioner is that he is the absolute owner of the house site property in Survey No.27/5 measuring an extent of 3 cents situate in Kurunthampallam village, Kalathur Group, Karaikudi Taluk,



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Sivagangai District. He has purchased the same under a registered sale deed, dated 31.03.2004 from one Vellaiyan for a valuable consideration. The land was assigned to the said Vellaiyan under an assignment deed, dated 30.09.1982 and subsequently, the petitioner's vendor had obtained a patta in Patta No.944. From the date of the purchase, the property stands in the petitioner's name and patta also been mutated in his name in Patta No.1111.

3. While so, one Karuppayee, Periyakaruppan and Raja tried to interfere with his peaceful possession and enjoyment of the said lands compelling to file a suit in O.S.No.113 of 2007 on the file of Additional District Munsif, Karaikudi for a permanent injunction to the aforesaid persons to remove the construction made by them in the suit property. This suit after contest, was allowed and the petitioner's title to the property has been confirmed in these proceedings. Challenging the said judgment and decree, the defendants therein had filed A.S.No.29 of 2010 on the file of the Sub Court, Devakottai which was also dismissed by judgment and decree, dated 08.09.2010. The second appeal which follow



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in S.A.(MD)No.441 of 2012 was also ended in a dismissal. As a result, the petitioner's title to the property stood confirmed though the suit is not one for a declaration.

4. After the dismissal of the second appeal, the sons of the aforesaid persons attempted to physically assault the petitioner with deadly weapons on 15.10.2013 compelling the petitioner to institute criminal proceeding against the said persons. In this backdrop, it appears that the 4th respondent has given a petition to the 2nd respondent as if the original assignment given to the petitioner's vendor had been cancelled by the Revenue Divisional Officer and the land had been restored to the Government. Without even affording an opportunity to the petitioner to properly put across his case, especially in the light of the revenue records, judgment of the Civil Court and the sale deed, the 2nd respondent has passed the impugned order, dated 18.04.2016 and the challenge to this order before the 1st respondent also ended in dismissal with the authorities not considering the orders of the Civil Court. Therefore, this writ petition.



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5. The counter affidavit has been filed by the 3rd respondent wherein it is stated that the assignment issued in favour of Vellaiyan was cancelled by the Revenue Divisional Officer vide proceedings bearing Na.Ka.A3/19479/82, dated 22.02.1984. His assignment was cancelled since he already owned another house in Peerkalaikadu, Sirugapatti Panchayat. The petitioner has purchased the property on 31.03.2004 much after the cancellation of the patta. The cancellation of the assignment patta has not been challenged to date.

6. Heard the learned counsel on either side.

7. Admittedly, the assignment patta granted to the petitioner's vendor had been cancelled way back in the year 1984 within few years of the assignment since he was already owning another property and the assignment is one which is given to landless poor. The cancellation had not been challenged by the vendor and since the same was not entered into the revenue records, the said Vellaiyan appears to have taken



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advantage of the same and sold the property to the petitioner.

Considering the fact that an earlier order of the year 1984 had not been challenged, the present relief cannot be granted and accordingly, I see no reason to interfere with the impugned orders.

8. Accordingly, this Writ Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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