



W.P.(MD) No.21050 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.21050 of 2018
and
W.M.P.(MD) No.18847 of 2018**

E.M.Manoharan

... Petitioner

/vs./

**1.The Additional Chief Secretary/
Commissioner for Land Administration,
Chepauk, Chennai 600 005.**

**2.The District Collector
Theni District.**

**3.The Tahsildar,
Uthamapalayam Taluk,
Theni District.**

4.M.C.Anbzhagan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No.F2/28853/2008 dated



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10.06.2016 quash the same and consequently forbearing the respondents herein from in any manner interfering with the petitioner and his family members peaceful possession and enjoyment of property measuring 40 cents comprised in S.No.226/1 and 4.99 acres comprised in S.No.226/2 situated in Chinnamanur, Uthamapalayam Taluk, Theni District.

For Petitioner : Mr.R.Jothiramalingam

For R1 to R3 : Mr.P.Thambidurai
Government Advocate

For R4 : Mr.M.O.Thevankumar

ORDER

Challenging and seeking to quash the order passed by the first respondent on 10.06.2016 in his proceedings bearing Na.Ka.No.F2/28853/2008 and also to forbear the respondents from in any manner interfering with the petitioner's and his family members' peaceful possession and enjoyment of property in S.Nos. 226/1 and 226/2 at Chinnamanur, Uthamapalayam Taluk, Theni District.

2. It is the case of the petitioner that the aforesaid properties were purchased by him from one Pechiammal and 5 others under a registered sale deed dated 31.01.1992. The pattas in respect of the properties were comprised in patta



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Nos.1354 and 1355. After the purchase, the petitioner had got the mutation effected in his name and the patta was also transferred to his name. Thereafter, the petitioner had executed a registered settlement deed in favour of his wife, Sevamani and his son, Balaji under a registered deed dated 21.12.2009 in respect of the entire extent of 5.39 cents in S.Nos.226/1 and 226/2. The patta was also transferred to their names. Since 1992, the petitioner has been in absolute possession and enjoyment of the lands.

3. Nearly 2 decades and 3 years after their possession and enjoyment of the property, the fourth respondent claiming to be the President of Piramalai Kallar Community has created certain documents as if the lands in question were kallar jari lands and it was also contended that the property in S.No.226/1 had been assigned in favour of one Periya Karuppa Thevar, S/o. Ocha Thevar, vide DKT/2030/80 dated 20.04.1971 and the property in S.No.226/2, measuring an extent of 4.99 acres was assigned in favour of Pechiyammal, W/o.Ocha Thevar, vide DKT/2029/80 dated 20.04.1971.



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4. The complaint was that these lands which were kallar jari lands and were assigned to the beneficiaries were being sold to persons belonging to a different community. A writ petition has also been filed by the fourth respondent in W.P. (MD) No.18505 of 2015 and by an order dated 12.10.2015, the first respondent was directed to conduct an enquiry. The first respondent appears to have conducted an enquiry and the impugned order has been passed stating that there has been a violation of the assignment and directions were issued to cancel the patta.

5. In the impugned order, it had been stated that since the assignment was prior to 1971 and there is violation of assignment, the same could be cancelled. However, the respondents had failed to take note of the fact that the assignment, even according to the respondent, was made in favour of the petitioner's vendor during 1971 and not prior to 1971 and therefore, the patta cannot be cancelled. Therefore, aggrieved by the same, the petitioner is before this Court.

6. The respondents have not chosen to file their counter, but would submit that there is violation of assignment condition. This Court had directed the



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respondents to furnish the assignment deed, which had been issued to Pechiammal and Periya Karuppa Thevar in order to appreciate if there is a violation. However, this Court has been informed that these assignment deeds are not traceable.

7. Heard the learned counsel on either side.

8. Even assuming that the lands that have been assigned to Pechiammal and Periya Karuppa Thevar are kallar jari lands, the assignment is sought to be cancelled by reason of the provisions of G.O.(Ms) No.2255, Revenue Department, dated 14.05.1973. This Government Order would provide that if an assignment is prior to 1971 and there has been a violation of the conditions, the assignment could be cancelled and the respondents have proceeded to hold that the assignment in favour of said Pechiammal and Periya Karuppa Thevar has been made prior to 1971, which runs totally against their very order that the assignment in favour of the aforesaid two persons has been made on 20.04.1971 and this clearly says that the assignment is not prior to 1971. Therefore, the very basis on which the impugned order has been passed is absolutely baseless.



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9. Further, the respondents have not been able to produce the assignment to show that there has been a violation of condition. That apart, the petitioner has purchased the property in the year 1992 nearly 21 years after the alleged assignment. Even the records that were earlier produced did not contain the assignment in favour of Pechiammal and Periya Karuppa Thevar, without proving that the property in question is kallar jari land and that the conditional assignment has been granted, the impugned order passed is without jurisdiction.

10. Therefore, the Writ Petition stands allowed and the impugned order of the first respondent in Na.Ka.No.F2/28853/2008 dated 10.06.2016 is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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