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WP No.39447 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 02.01.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP No.39447 of 2024
and WMP Nos.42705 and 42706 of 2024

1. Mrs.Parameswari

2. Mrs.A.Senthamarai

3. Mr.P.Thirumalai

... Petitioners

Vs.

1. The District Collector,
District Collector office compound,
Kancheepuram District – 631 201

2. The District Revenue Officer,
Office of the District Revenue officer,
District Collector office compound,
Kanchipuram – 631 501

3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
District Collector office compound,
Kanchipuram – 631 501

4. The Tahsildar,
Office of Tahsildar,

1/10



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Wallajabad, Kanchipuram District 631 605

5. The Special District Revenue Officer (LA),
Highways Department,
District Collector office compound,
Kanchipuram 631 501

6. The Thakkar,
Shri Mohambariamman Thirukoil,
Ayanpettai Village,
Wallajabad Taluk,
Kancheepuram District – 631 001

... Respondents

Prayer: This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the respondents 1 to 4 to cancel the patta which was issued in the name of the 6th respondent temple by considering our representations and consequently, direct the respondents 1 to 4 to issue patta in our names for the respective properties comprised in S.No.26/2 which are situated at Ayyanpettai Village, Walajabad Taluk, Kanchipuram District.

For Petitioner : Mr.M.Vijay Anand

For Respondents : Mr.P.Sathish
Additional Government Pleader
for Respondents 1 to 5
Mr.S.Ravichandran,
Additional government Pleader
[HR&CE] for R6



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ORDER

The brief facts which has compelled the petitioner to approach this Court seeking a Mandamus is herein below set out:-

(a) The property measuring an extent of 0.93 cents comprised in Survey No.26/2 along with other properties situated at Ayyanpettai Village, Kanchipuram District, was endowed by the villagers to the Sri Mohambariamman and Balasubramania Swamy Devasthanam on 15.10.1981. Devasthanam through its Dharmakartha Mr.T.Mani appointed by the Advocate Commissioner, HR&CE vide proceedings dated 15.11.1979, had sold the property along with other properties situated at Keezh Street, Sengunthar Community members of Ayyampettai Village and the same was registered as Doc No.2442/1981 at SRO, Wallajabad.

(b) Thereafter, the members of the aforesaid community to meet out the expenditure for construction of the temple had auctioned the said property on 24.01.1982. The petitioners husband had purchased the property to an extent of 720 Sq.ft. In the said survey No.26/2 from Kuppusamy Mudhaliar, who is one among the 12 members for a valid sale consideration



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and he died intestate leaving behind the petitioner / wife, two sons and one daughter as his legal heirs. The petitioner and children had thereafter been in a peaceful possession and enjoyment of the property. The property measuring an extent of 608 Sq.ft of land and 481 Sq.ft of land was sold by two among the 12 members under a valid registered sale deeds dated 01.02.1988 and 02.11.1988. He in turn had sold the property measuring 1102 Sq.ft. to the 2nd petitioner's husband on 30.06.1999 and he died intestate on 14.11.2017 leaving behind the 2nd petitioner and three sons as his only legal heirs. After the purchase, the petitioners and others have put up construction and their possession and enjoyment was recognized by the revenue authorities and the electricity bills and house tax receipts have been issued in their name. That apart, the family card, voters id card etc., were issued by the concerned authorities.

2. The petitioner would submit that thereafter they had approached the 1st respondent for issue of patta. They were called for an enquiry by the Tahsildhar and thereafter, there was no further orders from the respondents 1 to 4.



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3. While so, the petitioners came to learn that the Government was initiating steps to widen the road under the Chennai-Kanyakumari Industrial Corridor Project and they had decided to acquire some extent of land situated on the main road which includes the petitioner's property. However, no notice has been received from the department concerned. It was only by word of mouth that the petitioners had come to know that the 5th respondent had issued notice to the Assistant Commissioner, HR&CE as the lands in the revenue records stood in the name of the temple. The sale in favour of the community in the year 1981 and the auction and other sales have not been taken into consideration. However, the 6th respondent suppressing the aforesaid facts have obtained a patta in their name.

4. The petitioner would submit that they are in exclusive possession and enjoyment of the property in question and the 6th respondent temple has nothing to do with the property in question. The respondents without properly conducting an enquiry has awarded compensation to the 6th respondent, which is totally against the provisions of the Act.



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5. The 6th respondent has now received the compensation and on 10.07.2024 claim that the properties belonging to the temple and directed the petitioners and others to vacate the same. To this a detailed reply dated 12.07.2024 had been issued. Despite which, another notice dated 02.08.2024 has been issued against which the reply has been sent on 07.08.2024 and 29.10.2024. Since the 6th respondent was attempting to dispossess them, the petitioner had filed WP No.35917, 35922 of 2024 and 37878 of 2024 and by an order dated 26.11.2024 and 11.12.2024, it was made clear that without following the due process of law, the petitioners cannot be dispossessed.

6. Without providing the compensation, the respondents have proceeding with the formation of the Chennai Kanniyakumar IT express Corridor. The petitioners have therefore sought for a cancellation of the patta issued in favour of the 6th respondent on 25.05.2024, 21.06.2024, 29.07.2024 and 26.08.2024. Since these representations have not been considered, the petitioners seeks a mandamus.



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7. The narration of facts and on hearing the arguments submitted by the counsel on either side, it is seen that earlier the 3rd and 2nd petitioner have filed WP Nos.35917 and 25922 and of 2024 on the file of this Court seeking a mandamus to the respondents to consider the petitioner's reply dated 07.08.2024 given by the petitioner to the notice dated 02.08.2024 issued by the 4th respondent and consequential direction to the respondents 2 and 3 to pay the necessary compensation for acquiring the lands of the petitioner.

8. The above writ petitions were disposed of by an order dated 26.11.2024, wherein this Court has passed the following order:-

8. When the sale in favour of the vendor of the petitioner's husband was not sanctioned by the Competent Authority, the same shall be treated as a void document. Therefore, any subsequent purchase made by the petitioner will not give any right over the subject property. Nevertheless, for the notice issued by the 4th respondent dated 02.08.2024, the petitioner has submitted a reply on 07.08.2024, the same shall be considered by 4th respondent in accordance with law. In case, the 4th respondent wants to take over the possession of the



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property, it is for him to follow due process of law. It is made clear that without following due process of law, the petitioner's possession shall not be disturbed.

9. Despite the express orders set out above directing the 4th respondent to consider the petitioner reply dated 07.08.2024, it appears that the respondents are attempting to take over the petitioner's lands and to dispossess the petitioner, which would be in direct violation of the orders passed in the aforesaid writ petition. Therefore, the 4th respondent is directed to act on the representation after hearing the objection of the petitioner as well as the 6th respondent, affording both the parties a personal hearing and thereafter, pass orders within a period of three months from the date of receipt of a copy of this order.

10. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index :Yes/No

Internet:Yes

Speaking Order/Non-speaking Order



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