



W.P.(MD) No.23138 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.23138 of 2024

and

W.M.P.(MD) Nos.19607 and 19608 of 2024

S.M.P.Damodaran

.. Petitioner

Vs.

1.The Assistant Commissioner,
Land Reforms/Urban Land Ceiling
and Urban Land Tax,
Madurai.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Thashildar,
Bodinaickkanur Taluk,
Theni District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order bearing M.R.4/234/Bodi./B1 dated 09.07.2013 passed by the first respondent and quash the same in so far as the petitioner's property in New Survey No.78/1AH, New patta No.1283,



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Bodi North Hills Village, Bodinayakanur taluk, Theni District measuring 1 acre and 31 cents.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

Questioning the impugned order passed by the first respondent behind the back of the petitioner, the petitioner is before this Court.

2. The petitioner seeks the issue of writ of certiorari to call for the records of the impugned order dated 09.07.2013 passed by the first respondent, quash the same, insofar as it relates to the petitioner's property comprised in S.No.78/1AH, new Patta No.1283 of Bodi North Hills Village, Bodinayakanur Taluk, Theni District measuring an extent of 1 Acre and 31 Cents.

3. It is the contention of the petitioner that the first respondent herein has re-assigned land measuring a larger extent of 2 Acres and 31



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Cents to one Alagarmani, son of Kalimuthumaniam. Revenue records were mutated in his name and he has been cultivating the lands. Alagarmani sold part of the land measuring an extent of 1 Acre and 31 Cents to the petitioner under a registered sale deed dated 31.01.2011.

4. Assignment Condition No.8 clearly stipulates that the land would vest absolutely on the assignee after value of the land, buildings and trees thereon is paid in full, or after the expiry of a period of 20 years.

5. The petitioner's contention is that Alagarmani had remitted full value of the land and therefore, had become its absolute owner. He had thereafter sold the property to the petitioner and he is cultivating the said extent of 1 Acre and 31 Cents till date.

6. While so, the second respondent-Revenue Divisional Officer, Uthamapalayam, by proceedings dated 02.06.2017 directed to conduct survey and submit a report. The Taluk Surveyor, Bodinayakanur had



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conducted survey of the petitioner's land and submitted a report dated 11.10.2017 to the third respondent confirming the petitioner's possession of the lands. The second respondent had directed the third respondent to submit a report on the claim made by the petitioner for grant of F-Patta in respect of the agricultural lands, which to date has not been done. The petitioner was informed by the staff of the third respondent that in October, 2023, the assignment made in favour of his vendor had been cancelled on 09.07.2013.

7.The petitioner would submit that on perusing the impugned order, he came to learn that the assignment given to his vendor had been cancelled. Though he has been in possession and in cultivation of the lands in question, no notice had been issued to him. Therefore, the petitioner had immediately moved the District Collector on 09.07.2024 seeking to set aside the impugned order cancelling the assignment order. Since the same has not been considered, the petitioner is before this Court.



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8. Heard the learned counsel on either side.

9. The main ground on which the petitioner has filed this writ petition is that before cancelling the assignment order in favour of his predecessor in title Alagarmani, notice had not been served either on his vendor, nor on himself. That apart, the assignment order has been cancelled only on the ground that the property had been sold by the assignees to others.

10. The contention of the petitioner is that Condition No.8 of the assignment granted in favour of the said Alagarmani was that on the payment of the entire land value, or after the expiry of the period of 20 years, the property would become the absolute property of the assignee. The vendor Alagarmani had paid the entire consideration. Therefore, he was an absolute owner and after he had become the absolute owner, there has been no question of the respondents cancelling the patta. Had the respondents issued a notice to the petitioner, he could have explained the above. The impugned order has been passed unilaterally without notice



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to the original assignees and is a non-speaking one. In these circumstances, this Writ Petition is allowed, the impugned order is set aside and the matter is remitted back to the first respondent, who shall issue notice to the petitioner and the other assignees/subsequent purchasers, hear them along with documents and 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. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2024

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

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To

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P.T.ASHA, J.

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