

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.8650/2015 & MP.Nos.1&2/2015

V.Srinivasan

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Petitioner

Versus

1.The Secretary to Government
[Revenue Department] Fort
St George, Chennai 600 009.

2.The District Collector,
Perambalur District,
Perambalur.

3.The Sub Collector,
Perambalur District,
Perambalur.

4.The Tahsildar
Kunnam Taluk
Kunnam, Perambalur.

5.V.Samiraja

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Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records in the issuance of impugned enquiry notice in Na.Ka.No.A2/1403/2014 dated 05.09.2014 of the 3rd respondent and quash the same and consequently to direct the 3rd respondent to issue joint patta both in the names of the petitioner and his brother the 5th respondent herein as already existed by cancelling the single patta issued fraudulently in the name of his brother the 5th respondent herien in respect of SF.No.31/1 and 43/19 of Pennakonam [South] village and SF No.165/9, 12 etc of Pennakonam [North] village, Kunnam Taluk, Perambalur District.

For Petitioner : Ms.D.Lakshmi

For RR 1 to 4 : Mrs.P.Rajalakshmi, GA

ORDER

Heard Ms.D.Lakshmi, learned counsel appearing for the petitioner and Mrs.P.Rajalakshmi, learned Government Advocate accepting notice for the respondents 1 to 4 and with their consent, the writ petition itself is disposed of at the admission stage itself.

2.Since the writ petition is disposed of at the admission stage itself, notice to the 5th respondent is dispensed with and the merits of the allegations made by the petitioner as against the 5th respondent herein, are not gone into.

3.The petitioner has filed this writ petition to quash the impugned notice issued by the 3rd respondent dated 05.09.2014 on the ground that the notice is improper since in the appeal petition filed by the petitioner, the 3rd respondent should hear the petitioner as well as the 5th respondent herein, conduct an enquiry and pass a reasoned order.

4.A perusal of the impugned notice would show that the notice has been issued only to the petitioner and the petitioner has appeared on 25.09.2014 and pointed out the mistake to the 3rd respondent to issue proper summons to the petitioner as well as to the 5th respondent, conduct an enquiry and pass an order. However, there has been a stalemate in the matter. Therefore, the petitioner is before this Court to quash the said notice dated 05.09.2014.

5.After hearing the learned counsel for the petitioner as well as the learned Government Advocate, this Court is satisfied that the procedure adopted by the 3rd respondent is incorrect. When the petitioner has filed an appeal as against the grant of patta in favour of the 5th respondent, the appeal cannot be decided without hearing the petitioner and the 5th respondent. However, the 3rd respondent has erroneously issued summons only to the petitioner without issuing any summons to the 5th respondent. Therefore, the impugned notice/summons dated 05.09.2014 is unsustainable.

6.Accordingly the writ petition is allowed and the impugned notice dated 05.09.2014 is set aside. The 3rd respondent is directed to issue fresh notice to the petitioner as well as to the 5th respondent, direct the parties to appear in person, conduct an enquiry and thereafter, pass a reasoned order on merits and in

accordance with law within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary to Government
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St George, Chennai 600 009.

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Perambalur.

3.The Sub Collector,
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Perambalur.

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Kunnam Taluk
Kunnam, Perambalur.

1 cc to M/s.D. Lakshmi, Advocate, Sr. 17026

1 cc to Government Pleader, Sr. 173285

WP.No.8650 of 2015

GP (CO)

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