

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.11.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.15369 of 2016

and

W.M.P.Nos.13393 and 13394 of 2016

Mrs.Anuradha Ravi

... Petitioner

Vs

1.The District Revenue Officer,
Tiruvallur District,
Tiruvallur.

2.The Revenue Divisional Officer,
Ponneri Division,
Tiruvallur.

3.The Tahsildar,
Ambattur Taluk,
Tiruvallur.

4.K.S.Gopala Krishnan

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings bearing Na.Ka.No.11980/2009/C2 dated 04.12.2009 of the third respondent and the order of the 2nd respondent bearing Na.Ka.No.6100/2010/A1 dated 03.02.2012 confirming the order of the 3rd respondent and the order of the 1st respondent bearing Rc.No.5121/2012/B3 dated 06.02.2016 confirming the order of the 2nd respondent and quash the same and direct the 3rd respondent to issue patta in favour of the petitioner relating to the property situated at survey No.10/3, Porur Village measuring 0.12 hectares at Ambattur Taluk, Tiruvallur District.

For Petitioner : Mr.Aravind Pandian, Senior Counsel
for Mr.K.Elangoo

For Respondents : Mr.A.N.Thambidurai,
Special Govt. Pleader for R1 to R3.

Respondent 4 : Not Appear

O R D E R

Heard the learned Senior Counsel appearing for the petitioner and the learned Special Govt. Pleader appearing for the respondents 1 to 3.

2. The petitioner would state she is the absolute owner of the property in S.No.10/3A, situate at Porur Village, Ambattur Taluk, Tiruvallur District, vide a registered sale deed dated 06.07.2015, registered as Document No.5920 of 2005. She further stated that she has purchased the said land from the legal heirs of the previous owner, one Mr.D.Namalvar, who in turn had purchased the same from the 4th respondent vi., Mr.K.S.Gopalakrishnan. The said land was transferred to Mr.D.Namalvar by the 4th respondent in the year 2004 and then it was transferred to the petitioner in the year 2005. Subsequently, the petitioner has obtained a patta in her name vide Na.Ka.5655/05-06. In the year 2007, the 4th respondent challenged his transfer to D.Namalvar (Predecessor in interest) vide a suit bearing O.S.No.68/2007, which was renumbered as O.S.No.205/2010. Subsequently, the said suit has been dismissed for default vide an order dated 07.02.2011.

3. In the interregnum, in the year 2010, the third respondent has passed an order cancelling the patta granted to the petitioner, without affording an opportunity of hearing and without issuing any notice to the petitioner, for the reason that there has been a challenge to the title of the predecessor in interest, Mr.D.Namalvar, vide the suit in O.S.No.68 of 2007. Aggrieved against the same, the petitioner has filed an appeal before the 2nd respondent, who has confirmed the same, by its order dated 03.02.2012 and against which, the petitioner preferred a revision before the 1st respondent and the same was rejected on 06.02.2016, on the ground that a dispute is pending before the Civil Forum. Therefore, the petitioner has come forward with this Court by filing this writ petition.

4. The learned senior counsel appearing for the petitioner would submit that when the suit is pending, the third respondent has no power to cancel the patta granted in favour of the petitioner. He further submits that the first and second respondents have only power to cancel the patta and therefore, he prays for appropriate orders.

5. In the light of the fact that the the Tahsildar has no power to cancel the patta, when a suit is pending and that the petitioner has not been afforded with any reasonable and fair opportunity, this Court is of the view that the impugned order warrants interference.

6. In the result, this Writ Petition is allowed and the proceedings of the 3rd respondent in Na.Ka.No.11980/2009/C2 dated 04.12.2009 and the order of the 2nd respondent in Na.Ka.No.6100/2010/A1 dated 03.02.2012 confirming the order of the 3rd respondent and the order of the 1st respondent in Rc.No.5121/2012/B3 dated 06.02.2016 confirming the order of the 2nd respondent is set aside and the matter is remanded back to the third respondent for fresh consideration. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsm
To

- 1.The District Revenue Officer,
Tiruvallur District,
Tiruvallur.
- 2.The Revenue Divisional Officer,
Ponneri Division,
Tiruvallur.
- 3.The Tahsildar,
Ambattur Taluk,
Tiruvallur.

+1cc to Mr.K.Elagoo, Advocate sr.69925

+1cc to Government Pleader sr.70125

सत्यमेव जयते

W.P.No.15369 of 2016

pk(co)
ss(14/2/2017)

WEB COPY