

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.34366 of 2016

K.Kannapillai

... Petitioner

Versus

1. The Revenue Divisional Officer,
RDO Office, Ranipet,
Vellore District - 632 501

2. The Tahsildar, Arakonam Taluk Office,
Arakonam, Vellore District - 631 003

3. M.Lakshmi

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the second respondent to dispose of the petitioner's representation dated 05.04.2016, within the time stipulated by this Court.

For Petitioner : M/s. B.Vijay & Mr. G.Dinesh Kumar

For Respondents : Mr. R.S.Selvam, Govt. Advocate

ORDER

This writ petition has been filed by the petitioner praying for the issuance of a writ of mandamus, directing the second respondent to dispose of the petitioner's representation, dated 05.04.2016, within the time stipulated by this Court.

2. Heard the learned counsel appearing for both sides.

3. According to the petitioner, the petitioner is a senior citizen aged about 82 years; he is the absolute owner of the lands comprised in Old S.No.84, New S.No.84/23, situated in No.126 Aatupakkam Village, Arakonam Taluk, Aatupakkam Village Panchayat, Nemili Panchayat Union, Vellore District, and he is in absolute possession and peaceful enjoyment of the said property; he has approached the Special Tahsildar, Natham Nilavari Thittam, for the issuance of patta in his favour, taking into consideration the continuous and uninterrupted possession of the lands, since the lands have been classified as Grama Natham, by the Revenue Department;

the Special Tahsildar, after conducting inspection, has issued patta in the name of the petitioner; while that being so, in the month of March 2016, the third respondent herein (daughter of the petitioner) illegally attempted to interfere with the peaceful possession of the lands in question and subsequently, on enquiry in the Taluk Office, the petitioner came to know that the husband of the third respondent had created a forged settlement deed and obtained patta in favour of the third respondent; therefore, the petitioner made a representation, dated 29.01.2015, to the respondents 1 and 2 and to the District Collector, Vellore, to cancel the fraudulent patta obtained by the third respondent; thereafter, the matter was placed before the first respondent, who called the petitioner for an enquiry on 25.07.2016; the petitioner appeared on the said date before the first respondent and ventilated his grievances; during enquiry, it revealed that there is a wrong entry in the patta Registers; in the meantime, the District Collector has given a direction that the proper and competent authority to enquire into the matter is the Tahsildar.

4. The learned counsel appearing for the petitioner submitted that the matter is now pending consideration before the first respondent and the petitioner only seeks for a mandamus to dispose of the representation, dated 05.04.2016 and the act of the first respondent, in keeping the representation pending, without any action thereon is illegal and against the principles of natural justice.

5. This Court heard the learned Government Advocate appearing for the respondents on the submissions made by the learned counsel for the petitioner.

6. Admittedly, the petitioner is a senior citizen and he is the absolute owner of the lands comprised in Old S.No.84, New S.No.84/23, situated in No.126 Aatupakkam Village, Arakonam Taluk, Aatupakkam Village Panchayat, Nemili Panchayat Union, Vellore District. The petitioner had approached the Revenue Authorities to verify whether there is any encumbrance in the property-in-question and on enquiry, it came to light that the third respondent has secured patta in her favour, by making forged settlement deed.

7. Be that as it may. It is pertinent to point out that the second respondent is duty bound to issue notice to the petitioner for making corrections in the relevant patta registers, as contemplated under Section 10 of the Patta Pass Book Act, 1983, since the petitioner is the absolute owner of the property in question. Further, the second respondent / Tahsildar is the competent authority to consider the representation for cancellation of patta and the first respondent / Revenue Divisional Officer, being an appellate authority, cannot act as original authority, which would in effect deprive the right to prefer appeal under the Act. In

any event, the representation of the petitioner had been kept pending without any progress.

8. In the light of the above, there will be a direction to the second respondent / Tahsildar to conduct an enquiry, in this matter, in accordance with law, after giving an opportunity of personal hearing to the petitioner as well as the third respondent and thereafter, pass appropriate orders within a period of six months from the date of receipt of a copy of this order.

9. With the above directions, this writ petition stands disposed of. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srk

To

1. The Revenue Divisional Officer,
RDO Office, Ranipet,
Vellore District - 632 501
2. The Tahsildar, Arakonam Taluk Office,
Arakonam, Vellore District - 631 003

1 cc to M/s. B. Vijay, Advocate, Sr. 55834
1 cc to Government Pleader, Sr. 56455

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NR (CO)
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