

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.37348 of 2016

P.Nallasamy

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Dharapuram,
Tirupur District.

2. The Tahsildar
Dharapuram,
Tirupur District.

3. Muthusamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the first respondent to take up the appeal dated 16.01.2013 preferred by the petitioner and covered under the enquiry notice dated 20.10.2014 Na.Ka.3712/2012/A issued by the first respondent.

For Petitioner : Mr.R.Asokan

For Respondents : Mr.A.Kumar
Special Government Pleader
for R1 & R2

ORDER

Heard the learned counsel for the petitioner and Mr.A.Kumar learned Special Government Pleader who accepts notice on behalf of the respondents 1 and 2 and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner would state that the father of the petitioner one late Periyasamy Gounder purchased a property to an extent of 8.12 acres of agricultural lands in S.No.6 and 7 of Alampalayam Village in Dharapuram Taluk, Tirupur District and same was registered by a sale deed bearing document No. 3202 of 1937 dated 06.12.1937 and from the date of

purchase, he is in continuous possession and enjoyment of the same. The property in Survey Nos.6 and 7 were assigned new survey Nos.2147 and 2148 and the property belonging to the father of the petitioner was assigned New Survey No.2148 and the property owned by one M.Ramasamy and others in Survey Nos.6 and 7 were assigned with new survey No.2147. The father of the petitioner was also issued with a patta bearing No.1358 for an extent of 3.29.0 hectares in S.No.2148. On 11.03.1996, father of the petitioner died leaving behind the petitioner and his mother as his legal heirs. After the demise of the father of the petitioner, the petitioner and his mother got the patta mutated in their names in Survey No.1358. Thereafter, the petitioner and his mother, out of the extent of 8.12 acres, sold to an extent of 7.34 acres comprised in Survey No.2148 to one Mr.T.Kumar under a sale deed dated 21.07.2009 registered as document No.5535 of 2009 and the remaining of 78 cents was still in owned by the petitioner and his mother. While so, during Jakmabandhi, as the third respondent represented to the second respondent that his parents were no more, the name of the third respondent has been included in survey Nos.1358 and 2147 along with the existing pattadars, without giving notice to them. The second respondent unilaterally included the name of the third respondent in the patta No.1358, which stood only in the name of the petitioner and his mother and not considering the fact that the third respondent do not have any extent of land in that patta number. Subsequently, the said T.Kumar, who had purchased to an extent of 7.35 acres from the petitioner and his mother submitted an application to the Tahsildar for issue of patta in his name. The Tahsildar, without looking into the sale deed produced by the said T.Kumar and considering the fact that the petitioner and his mother own remaining 78 cents in the Patta No.1358, has passed an order directing deletion of the name of the petitioner and his mother and to include the name of the purchaser, the said Kumar. Accordingly the name of the petitioner and his mother were removed and patta has been issued in the name of the said T.Kumar and the third respondent. Therefore the petitioner preferred an appeal dated 16.01.2013 to the Revenue Divisional Officer, Dharapuram and the appeal has not been taken up for enquiry till date. Hence, the petitioner has come forward with the present writ petition.

3. This Court, considering the limited scope of prayer sought for by the petitioner and without going into the merits of the claim projected by the petitioner either in this writ petition or in his appeal petition, directs the first respondent to consider and dispose of the petitioner's appeal dated 16.01.2013 on merits and in accordance with law after issuing notice to the 3rd respondent and pass orders as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this Order and

communicate the decision taken, to the petitioner as well as to the 3rd respondent herein.

4. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Revenue Divisional Officer,
Dharapuram,
Tirupur District.
2. The Tahsildar
Dharapuram,
Tirupur District.

+1cc to Mr.R.Asokan, Advocate, S.R.No.60798
+1cc to the Government Pleader, S.R.No.61598

W.P.No.37348 of 2016

CTK(CO)
CA(22/11/2016)



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