

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5936 of 2016
and
W.M.P.No.5298 of 2016

M/s.Alliance Projects,
Partnership Firm,
Rep. by Partner Mr.Manoj Namburu,
Plot No.A, Door No.36/1,
Gandhi Mandapam Road,
Kotturpuram,
Chennai-600 085.

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Ambattur Taluk Office, Ambattur.

2.The Tahsildar,
Ambattur Taluk Office, Ambattur.

3.The Deputy Tahsildar,
Ambattur Taluk Office, Ambattur.

4.Mr.N.Satheesh ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the order Na.Ka.No.1412/2015/A2, dated 31.12.2015 passed by the 1st respondent and to quash the same as illegal as Arbitrary.

For Petitioner : Mr.S.Sethuraman

For respondents : Mr.V.Jayaprakash Narayanan, Spl. GP
(For R1 to R3)
Mr.C.Anarasu (For R4)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the order Na.Ka.No.1412/2015/A2, dated 31.12.2015

passed by the 1st respondent and to quash the same as illegal and arbitrary.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows_

2-1. The petitioner is the absolute owner of the property measuring to an extent of 6 acres 53 cents in Korattur Village, Chennai. The said property was purchased by the petitioner from M/s. Asha Nivas, Social Welfare Centre, vide Sale Deed dated 05.09.2005 registered as Doc.No.3561/2005. Pursuant to the said sale deed, Patta has been transferred in the name of the petitioner. Ever since the date of purchase, the petitioner is in possession and enjoyment of the property. While so, during the year 2014, the petitioner found a notice in the construction site of the petitioner in Korattur Village issued by the District Court, Madurai stating that one Mr.P.Ramamurthy, Mr.R.Ramasubramanian, R.Palanikumar, V.Natarajan and P.Sivaperumal Author and Trustees of Inpros Chartiable Trust have filed a suit O.S.No.45 of 2014 for appointment of Commissioner for Sale of the lands in Survey No.590 measuring to an extent of 37 cents and in S.No.592 measuring to an extent of 58 cents in Korattur Village, which were purchased by the petitioner. The said suit in O.S.No.45 of 2014 was filed under Section 92(1)(f) of CPC seeking for grant of a scheme decree and to grant permission to Mr.P.Ramamurthy (1st plaintiff in the said suit), for executing the Will of one Nayagam, by selling the 'A' schedule properties in the suit, by appointing an Advocate Commissioner to supervise the sale. Immediately, the petitioner obtained the documents from the District Court, Madurai and came to know from the said documents that one Mr.P.Ramamurthy (1st plaintiff) has also filed a petition in O.P.No.583 of 2009 on the file of this Court for grant of probate of Will dated 05.04.2006 alleged to have been executed by one Mr.P.Nayagam, who had bequeathed several properties including the land in Survey No.590 measuring 39 cents and Survey No.591 measuring to an extent of 58 cents situated at Korattur, Village. The said OP has been allowed by this Court vide order dated 26.11.2010.

2-2. The petitioner filed a petition to implead the petitioner as a party in the suit in O.S.No.45 of 2014 and also to grant an opportunity for filing an objection in the suit. After few adjournments, the petitioner came to know that the said Ramamurthy and other plaintiffs withdrew the said suit.

2-3. Thereafter, the petitioner has also filed an application to revoke the probate granted in O.P.No.583 of 2009 with regard to the properties purchased by the petitioner in Survey Nos.590 & 591 at Korattur Village and the same is yet to be taken up, as the back papers of the O.P.No.538 of 2009 were not traceable by the Registry.

2-4.Now, one Mr.Satish, claiming to be the owner of the said lands, has made a representation to the 1st respondent for cancellation of Patta issued in the name of the petitioner pertaining to the Survey Nos.590 and 591. Based on the said representation, the 2nd respondent has issued a notice dated 29.07.2015 to the petitioner calling upon the petitioner to be present for an enquiry on 06.08.2015. Whereas the Law Officer of the petitioner visited the office of the 2nd respondent and she was asked to meet the 3rd respondent Deputy Tahsildar Mr.Manikandan in the office of the Tahsildar, Ambattur. It was informed to her that the 3rd respondent was not available and the enquiry would be held on some other day. The 2nd respondent issued a letter without date in the month of August, 2015 bearing No.Na.Ka.49/2015/C1 intimating that the enquiry is fixed on 20.08.2015 and on the said date, the Law Officer of the petitioner explained the title of the petitioner to the 3rd respondent.

2-5.On 31.08.2015, the petitioner submitted the documents to the 3rd respondent and the same was recorded by the 3rd respondent on 31.08.2015. Subsequently, the petitioner received a letter dated 26.10.2015 from the 1st respondent fixing the date for enquiry as 30.10.2015 at 4.00 pm. The petitioner appeared on the said date, but no enquiry took place and she was informed that next hearing date would be intimated to the petitioner. The petitioner received a letter dated 11.11.2015 to appear on 12.11.2015. Accordingly, the petitioner appeared on 12.11.2015 before the 1st respondent and explained the case. During the course of enquiry, the 1st respondent was called by the District Collector and he left the enquiry informing that he would continue the enquiry on some other day and the petitioner would receive a letter about the next hearing date.

2-6.It is stated by the petitioner that while the petitioner was expecting the notice about the next hearing date, a copy of the impugned order dated 31.12.2016 was received on 20.01.2016 by the petitioner, in and by which the patta granted in favour of the petitioner was cancelled by the 1st respondent. Aggrieved over the impugned order, the petitioner has approached this Court with the present writ petition.

3.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the official respondents and the learned counsel for the 4th respondent and perused the materials available on record.

4.From a perusal of the materials available on record, it is seen that as contended by the learned counsel for the petitioner, no opportunity was given to the petitioner and no proper enquiry was conducted by the 1st respondent before passing the impugned

order cancelling the patta issued in favour of the petitioner. Hence, on the said sole ground, it would be appropriate to set aside the impugned order and to remand back the matter to the 1st respondent for consideration.

5. Accordingly, the impugned order dated 31.12.2015 passed by the 1st respondent is set aside and the matter is remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to conduct a fresh enquiry and give an opportunity of personal hearing to the petitioner as well as to the 4th respondent and other necessary parties, if any, and to pass appropriate 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.

With the above terms, the writ petition is ordered. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

[ssv]

To

- 1.The Revenue Divisional Officer,
Ambattur Taluk Office, Ambattur.
- 2.The Tahsildar,
Ambattur Taluk Office, Ambattur.
- 3.The Deputy Tahsildar,
Ambattur Taluk Office, Ambattur.

1 cc to Mr.S. Sethuraman, Advocate, Sr. 26251
1 cc to Mr.C. Anbarasu, Advocate. Sr. 26186

W.P.No.5936 of 2016
and
W.M.P.No.5298 of 2016

PPA (CO)
kk 31/5