

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9253 of 2016
and WMP.No.8224 of 2016

C.Thumbanayagam

... Petitioner

Vs.

The District Collector,
Villupuram District,
Villupuram.

2.The Tahsildar,
Villupuram.

3.Kaliyaperumal

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings in Na.Ka.A3/10950/2015 dated 13.02.2016 and quash the same and thereby direct the second respondent to issue separate patta to the petitioner in respect of Survey No.118/2B-12 hares and Survey No.119/1-1 hare in Sithathur Thirukkai Village, Villupuram Taluk.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.K.Thangapandi, GA for R1 & 2

सत्यमेव जयते
O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of certiorarified mandamus to call for the records of the 2nd respondent in his proceedings in Na.Ka.A3/10950/2015 dated 13.02.2016 and quash the same and thereby direct the second respondent to issue separate patta to the petitioner in respect of Survey No.118/2B-12 hares and Survey No.119/1-1 hare in Sithathur Thirukkai Village, Villupuram taluk.

3.The petitioner is entitled to substantial extent of properties at Sithathur Thirukkai village, Villupuram taluk and district. The properties in S.No.118/2B - 12 hares and S.No.119/1 - 1 hare, are the ancestral properties belong to petitioner's father and forefathers, who were enjoying the same. Thereafter, the petitioner is in possession and enjoyment of the same. The said lands are cultivable lands, the revenue department has also issued computerized patta reflecting the properties in patta Nos.138 and 261. Originally patta was granted by Special Tahsildar, Villupuram, during 1984.

4.The petitioner came to know that the above Survey numbers viz., S.No.118/2B and S.No.119/1 were removed from the petitioner's patta and placed the name of Kanna Kounder. The name of said Kanna Kounder was inserted in the patta, who had died five years back. The inclusion of name of Kanna Kounder in S.No.119/1 without any notice to the petitioner is totally illegal. The cancellation or removal of a particular survey number, from the particular patta and inclusion of the same in another person's name should be made only after hearing. The respondents 1 and 2 cancelled the survey number from the petitioner's patta and included the third parties name without any notice.

5.Hence, the petitioner filed writ petition in WP.No.14804 of 2011 and this Court by an order dated 05.08.2015 directed the 2nd respondent to consider the representation of the petitioner and pass orders within a period of eight weeks. In pursuant to the order of this Court, the second respondent by the impugned proceeding issued joint patta for the petitioner in respect of S.No.118/2 and S.No.119/1 and also stated that the petitioner has not submitted any documents. In fact, the petitioner has produced the copy of "A" register, which was also produced in the earlier writ petition. The second respondent simply stated that the petitioner has not submitted any document. The second respondent ought to have perused the "A" register and ought to have issued separate patta in respect of S.No.118/2. Hence, the petitioner has come forward with the present writ petition.

6.Per contra, the learned Government Advocate appearing for the respondents 1 and 2 submitted that the respondents, after perusing the records and after providing due opportunity of personal hearing to all the parties, passed the impugned order, which needs no interference by this Court.

7.I have considered the rival submissions made on both sides and perused the documents placed before this Court.

8.Considering the grievance of the petitioner that the documents produced by him in "A" register was not properly considered by the second respondent before passing the impugned

order, hence, in the interest of justice, I am of the opinion by setting aside the impugned order passed by the second respondent the matter could be remitted back for fresh consideration. Hence, the impugned order is set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent is directed to consider "A" register copy produced by the petitioner and pass a fresh speaking order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the third respondent as well as to the other necessary parties.

9.The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Villupuram District,
Villupuram.

2.The Tahsildar,
Villupuram.

+1 cc to Mr.N.Suresh Advocate sr.17141
+1 cc to Government Pleader High Court Madras
sr.16955

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