



IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 07.11.2016
DELIVERED ON : 21.12.2016
CORAM

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN
Writ Petition(MD) No.2440 of 2013

AR.Alagar

... Petitioner

vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.

3. The Tahsildar,
Ramanathapuram District,
Ramanathapuram.

4. Rajendran

5. Kalimuthu

... Respondents

*(R4 & R5 are impleaded vide order
dated 17.02.2016 in M.P.(MD).1/2013)*

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus calling for the records of the respondents resulting in the 3rd respondent's impugned order dated 28.09.2012 passed in O.Mu.P4/12758/2012 and un-communicated order dated 05.02.1983 passed in Mu.Mu.1346/82 quash the same and consequently directing the respondents to cancel the patta issued in the name of 4th and 5th respondents in respect of the land in Survey No.28/13, Patta No.131 situated at Thiruthervalai Village, Anandur Post, Thiruvadanai Taluk, Ramanathapuram District by restoring the original status and thereafter to conduct a fresh enquiry by affording all sort of opportunities to the parties to establish their right to get patta in respect of the petition land.

(Prayer amended as per order of this Court made in W.M.P(MD). No.3037 of 2016 dated 21.12.2016)

For Petitioner	:	Mr.V.R.Venkatesan
For Respondents	:	Mr.V.Muruganandam, Additional Government Pleader for R1 to R3
	:	Mr. R.Boomirajan, for R4
	:	for R5- NA



ORDER

The petitioner has filed the writ petition seeking a direction directing the respondents 1 and 2 herein to initiate appropriate action in the representation given by the petitioner dated 05.12.2012, to restore the patta in respect of Survey No.28/13. Patta No.131 situated at Thiruthervalai Villaghe, Anandur Post, Thiruvadanai Taluk, Ramanathapuram District.

2. According to the petitioner, his father one late P.Arumugam purchased 81 cents of land in Survey No.28/13, in patta No.131 situate at Thiruthervalai Village, and all the revenue records have been changed in his name, and his father died in the year 1990. Thereafter, the petitioner is enjoying the property and the patta was standing in his father's name till 2012 without any change. In the month of November 2012, the respondents 4 and 5 herein trespassed into his land claiming that the patta in the said land has been changed in his favour. Subsequently, on enquiry, the petitioner came to know that the patta has been changed in the name of the fourth respondent herein without any notice. Hence, the petitioner made a representation to the respondents 1 and 2 on 05.12.2012 to initiate appropriate action for cancelling the patta granted in favour of the respondents 4 and 5. Since no action has been taken, he has filed the present writ petition.

3. During the pendency of the writ petition, the third respondent furnished a copy of the order dated 28.09.2012 informing the petitioner that based on the order passed by the Tahsildar in Mu.Mu.No.1346/1982 dated 05.02.1983, patta granted in favour of his father was cancelled and revenue records has been corrected by the Tahsildar including the name of the respondents 4 and 5. In the above circumstances, the petitioner filed an application to amend the prayer to set aside the order passed by the Tahsildar dated 05.02.1983 and also the subsequent order passed by the third respondent.

4. The learned counsel for the petitioner would submit that the third respondent has cancelled the patta without affording any opportunity to the petitioner or his father. Since the order has been passed without any notice to the petitioner or without conducting any enquiry, the order is liable to be set aside.

5. The learned counsel also relied upon a judgment of division bench of this Court reported in 2011 (5) CTC 04 in Vishwas Foot Wear Company Ltd /vs/ The District Collector, Kancheepuram and others and a judgment of this Court (Madurai Bench) reported in 2012 (3) CTC 823 in Tr.Dinakaran /vs/ The District Collector, Aruppukottai and others, for the proposition that when there is a dispute relating to the title of the property, the revenue authorities should not decide the title



of the parties and should direct the parties to approach the competent Civil Court for adjudication and also for the proposition that passing any order with regard to transferring of patta, opportunity should be given to the parties concerned either orally or in writing.

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6. The second respondent filed a counter affidavit stating that pursuant to the representation given by the petitioner dated 05.12.2012, the second respondent initiated proceedings and issued a notice for enquiry vide his proceedings in R.O.C.No.A5/8288/12 dated 28.12.2012 directing the petitioner to appear for enquiry. But the writ petitioner did not turn up for enquiry, instead, he has filed the writ petition seeking a direction to take appropriate action on his representation dated 05.12.2012.

7. It is further stated that the petitioner's representation was received by the second respondent on 07.12.2012. Thereafter, an enquiry was initiated and notice was issued to the petitioner on 28.12.2012, requiring the petitioner to appear for enquiry on 28.01.2013. But the petitioner did not appear for enquiry. Hence, another notice was issued on 28.01.2013 to the petitioner for enquiry on 18.02.2013. On that date also the petitioner did not appear and he filed the writ petition before this Court on 04.02.2013.

8. According to the second respondent, the validity of the order passed by the Tahsildar would be found out only after enquiry of both sides, verification of documents filed by the parties and also scrutiny of the concerned file of the Tahsildar. Since the petitioner did not appear for enquiry, the second respondent is not in a position to proceed. Apart from that, the learned counsel produced the proceedings of the third respondent in Mu.Mu.13146/82 dated 05.02.1983 transferring patta in favour of respondents 4 and 5. A perusal of the order shows that earlier an enquiry was conducted by the Tahsildar, in which fourth respondent and the petitioner's father, namely, Arumugam, S/o. Balan, has appeared for enquiry. After considering the rival submissions, the Tahsildar passed an order and according to the learned counsel for the respondents, it is not as if the Tahsildar passed an order without enquiry.

9. I have considered the rival submissions.

10. From the perusal of the records, it could be seen that the Tahsildar passed an order dated 05.02.1983 in Mu.Mu.No.13146/1982 after issuing notice to the fourth respondent as well as the to the father of the petitioner, namely, Arumugam, S/o. Balan. In the order, wherein the Tahsildar held that patta has been changed in the name of petitioner's father by the Revenue Inspector without any enquiry. Hence, he cancelled the order of



transferring patta in the name of the petitioner's father and ordered restoration of the patta in the original pattatharar. Further, he directed the parties to approach the Civil Court for appropriate remedy.

11. In the above circumstances, the contention of the petitioner that the order has been passed without any enquiry cannot be countenanced. Be that as it may, now based on the representation given by the petitioner, the second respondent, Revenue Divisional Officer, has initiated proceedings and also issued a notice for enquiry and it is only this petitioner avoiding the enquiry and filed this writ petition.

12. Considering the above facts and circumstances, without going to the merits of the case, since the second respondent has already initiated proceedings, the petitioner is directed to appear before the second respondent and raise his objection along with materials to substantiate his claim. The second respondent is directed to issue a fresh notice to the petitioner as well as to the respondents 4 and 5 and conduct a fresh enquiry and after considering the rival claims pass suitable orders on merits and in accordance with law. The above exercise should be completed within a period of twelve weeks from the date of receipt of a copy of this Order.

13. With the above direction this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.
3. The Tahsildar,
Ramanathapuram District,
Ramanathapuram.

+1cc to Mr.V.R.Venkatesan,Advocate Sr.No.83404
+1cc to Mr.R.Boomirajan,Advocate Sr.No.83011

W.P. (MD) .No.2440 of 2013
21.12.2016