

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.6146/2017

B.Babu .. Petitioner

Vs

1.The Tahsildar
Taluk Office, Arakonam
Vellore District.

2.G.Sivalingam .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st respondent (i.e.) The Tahsildar, Taluk Office, Arakkonam, Vellore District to consider the petitioner's representation dated 20.04.2015 to cancel the patta No.344, dated 09.05.2007 on the file of the Tahsildar, Taluk Office, Arakkonam, Vellore District, issued to the 2nd respondent and issue the patta to and in favour of the petitioner in respect of the property at measuring an extent of Acre 1.57 cents in Survey No.361/1 and an extent of Acre 1.57 cents in Surve No.361/2 in total acre 3.14 cents in Tanigai Polur, Vaniyambadi village, Arakkonam Taluk, Vellore District.

For Petitioner : Mr.G.Saravanakumar
For R1 : Mr.R.S.Selvam, GA

ORDER

By consent, the writ petition is taken up for final disposal. Mr.R.S.Selvam, learned Government Advocate accepts notice on behalf of the 1st respondent.

2 The petitioner along six others had filed OS.No.277/2004 on the file of the Court of the District Munsif, Arakonam, against the District Revenue Officer, Vellore, the Tahsildar, Arakonam and Sivalingam, S/o.Ganapathy, [respondents 1 and 2 in this writ petition] praying for declaration, to declare that the proceedings of the 2nd defendant dated 19.05.1999 will not bind them and also to cancel patta granted in favour of the 4th defendant, viz., G.Sivalingam and after contest, it was dismissed on 22.11.2013. The plaintiffs, which include the petitioner herein, aggrieved by the said dismissal of the suit, filed AS.Nos.36 & 37/2014 on the file of the Court of Subordinate Judge, Arakonam, and vide judgment and decree dated 04.07.2014, the said appeals were partly allowed, restraining the defendants therein from interfering with the peaceful possession and enjoyment and granted the relief to the appellants therein to approach the concerned authority for

cancellation of patta granted in favour of the 2nd respondent herein, viz., G.Sivalingam.

3 The 2nd respondent has also filed a suit in OS.No.259/2004 on the file of the Court of the District Munsif, Arakonam, against six persons which include the petitioner as the 4th defendant, praying for declaration and also to cancel the patta granted in favour of the 4th defendant therein/writ petitioner herein and the said suit was decreed as prayed for on 22.11.2013.

4 The learned counsel for the petitioner would submit that in the light of the leave granted vide judgment and decree made in AS.Nos.36 & 37/2014, on the file of the Court of Subordinate Judge, Arakonam, the 1st respondent is bound to consider the petitioner's representation for cancellation of patta granted in favour of the 2nd respondent herein and therefore, prays for appropriate orders.

5 Per contra, Mr.R.S.Selvam, learned Government Advocate appearing for the 1st respondent would contend that in the light of the conflicting decree in OS.No.259/2004 filed by the 2nd respondent herein on the file of the Court of District Munsif, Arakonam

and in AS.Nos.36 & 37/2014 on the file of the Court of Subordinate Judge, Arakonam, there is some difficulty in considering the representation submitted by the petitioner.

6 The Court has considered the rival submissions and also perused the materials placed before it.

7 A perusal of the typed set of documents would disclose that the suit filed by the 2nd respondent in OS.No.259/2004 was decreed on 22.11.2013 and it was set aside by the Lower Appellate Court in AS.Nos.36 & 37/2014 vide judgment and decree dated 04.07.2014 and consequently, the suit was dismissed.

8 In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation to the Revenue Divisional Office, Vellore District for cancellation of patta granted in favour of the 2nd respondent herein within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the said official shall entertain the same if the papers are otherwise in order and after putting the 2nd respondent on notice, shall

consider and dispose of the petitioner's representation on merits and in accordance with law and pass orders within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the 2nd respondent herein.

9 The writ petition stands disposed of with the above direction. No costs.

14.03.2017

Speaking Order

Index : No

Internet : Yes

AP

To

The Tahsildar

Taluk Office, Arakonam

Vellore District.

Copy to:-

The Revenue Divisional Officer

Vellore District.

M.SATHYANARAYANAN, J.,
AP

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