

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos. 26260 of 2010 & M.P.No.1 of 2010
and W.P.No.22811 of 2010 & M.P.No.1 of 2010

V.Mathivanan ... Petitioner in W.P.No.26260 of 2010
P.Indiran ... Petitioner in W.P.No.22811 of 2010

Vs

1. The District Revenue Officer,
Kancheepuram District, Chengalpet,
2. The Tahsildar,
Thirukazhukundram Taluk,
Kancheepuram District, Chengalpet.
3. Balakrishnan
4. Shanmugam Respondents in both
the petitions

Prayer in W.P.No.26260 of 2010: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the impugned order of the 1st respondent bearing No.Na.Ka.214/09/No.4 dated 07.07.2010 together with impugned order of the 2nd respondent bearing No.Na.Ka.4405/08/A1, dated 17.09.2010 passed pursuant thereto, quash the same as illegal and void and direct the 2nd respondent to restore the patta in respect of the land in Survey No.245/9, measuring about 0.13 acres, 245/10 measuring about 0.12 acres and 245/11 measuring about 0.07 acres at Vengambakkam Village, Thirukazhukundram Taluk, Kancheepuram District to the name of the petitioner.

Prayer in W.P.No.22811 of 2010: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the impugned order of the 1st respondent bearing No.Na.Ka.214/09/No.4 dated 07.07.2010 together with impugned order of the 2nd respondent bearing No.Na.Ka.4405/08/A1, dated 17.09.2010 passed pursuant thereto, quash the same as illegal and void and direct the 2nd respondent to restore the patta in respect of the land in Survey No.277/17, measuring about 0.27 cents at Vengambakkam Village, Thirukazhukundram Taluk,

Kancheeputam District to the name of the petitioner.

For Petitioner : Mr.T.Muthukumar
(in both the petitions) for M/s.Paul and Paul

For RR1 & 2 : Mr.S.DIWAKAR,
(in both the petitions) Spl. Government Pleader

For RR3 & 4 : Mr.S.Ramesh
(in both the petitions)

O R D E R

Writ Petition No. 26260 of 2010 is filed for issuance of Writ of Certiorarified Mandamus to call for the records connected with the impugned order of the 1st respondent bearing No.Na.Ka.214/09/No.4 dated 07.07.2010 together with impugned order of the 2nd respondent bearing No.Na.Ka.4405/08/A1, dated 17.09.2010 passed pursuant thereto, quash the same as illegal and void and direct the 2nd respondent to restore the patta in respect of the land in Survey No.245/9, measuring about 0.13 acres, 245/10 measuring about 0.12 acres and 245/11 measuring about 0.07 acres at Vengambakkam Village, Thirukazhukundram Taluk, Kancheeputam District to the name of the petitioner."

2. Writ Petition No. 22811 of 2010 is filed for issuance of Writ of Certiorarified Mandamus to call for the records connected with the impugned order of the 1st respondent bearing No.Na.Ka.214/09/No.4 dated 07.07.2010 together with impugned order of the 2nd respondent bearing No.Na.Ka.4405/08/A1, dated 17.09.2010 passed pursuant thereto, quash the same as illegal and void and direct the 2nd respondent to restore the patta in respect of the land in Survey No.277/17, measuring about 0.27 cents at Vengambakkam Village, Thirukazhukundram Taluk, Kancheeputam District to the name of the petitioner."

3. Challenging the order of the District Revenue Officer-first respondent, holding that the 3rd and 4th respondents will be entitled to patta, as they were the original owners of the patta property in the year 1965 and that the writ petitioner cannot claim UDR patta, which is subsequent to the date of the property belonging to the 3rd and 4th respondents and that the Civil Suit in O.S.No.17 of 2009 is pending before the Sub Court, Chengalpattu and this Court, in number of cases held that, when there is a Civil dispute with regard to the declaration of title, the competent Court is only Civil forum.

4. As per the Tamil Nadu Patta Pass Book Act, the title with regard to a property cannot be adjudicated before this

Court. Admittedly, the parties have to put forth their rival contentions in the Civil Suit that is pending and the proceedings dated 07.07.2010 of the District Revenue Officer shall not stand in the way of the Civil Court while adjudicating the matter and the same shall not be put against the parties. Hence, this Court is not inclined to interfere with the impugned order in the writ petition No.22811 of 2010, except holding that in case of adverse judgment and decree against the respondents 3 and 4 in the Civil Suit, the impugned order automatically stands cancelled and the petitioner is entitled to get patta in his name. As the Civil dispute is pending, both the parties shall not alienate the properties till the disposal of the suit.

5. Insofar as W.P.No.26260 of 2010 is concerned, it has been stated that based on the oral sale deed, the property has been purchased in 1980 and that the petitioner's father has obtained patta No.386 and that the property is used for agricultural purposes.

6. The learned counsel for the respondent 3 & 4 has submitted that the writ petitioners are relatives and they have taken out the stand in the pleadings and even though there is a civil dispute filed or pending with regard to the writ petition No.26260 of 2010, unless and until the title deed by the competent court, the petitioner is not entitled to have patta, more particularly, based on verbal sale.

7. The learned counsel for the petitioner refuted the said contentions that the patta has been issued as early as on 1986 and as there is no dispute pending, the respondent authority cannot cancel the patta that is issued as both the writ petitioners are relatives and that it appears that different stands taken by both the parties, there should be property title for getting patta in the name of the petitioners. Even though no civil suit is filed in W.P.No.26260 of 2010, it is open to the petitioner to establish his title, so that he can regain the patta issued in his name.

8. The writ petitions are disposed of with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1. The District Revenue Officer,
Kancheepuram District, Chengalpet,
2. The Tahsildar,
Thirukazhukundram Taluk,
Kancheepuram District, Chengalpet.

+2cc to Mr. Advocate, S.R.No. 76185, 76186/17

+1cc to the Government Pleader, S.R.No. 74737/17

+3cc to Mr. Advocate, S.R.No. 74040, 76531, 76532/17

W.P.Nos. 26260 of 2010 and 22811 of 2010

SJ(CO)
TR(20/11/2017)



WEB COPY