

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.42101 of 2016 &
W.M.P.Nos.36010 of 2016 & 14776 of 2017

Parameshwari
... Petitioner

v.

- 1 The Thasildhar
Aminjikarai Taluk Office
No.4, West Mada Street
Koyambedu, Chennai-600 107.
- 2 Arulmighu Agathiswarar Thirukoil
Having its office at the temple premises
Villivakam, Chennai-600 049.
- 3 The Joint Commissioner
Hindu Religious & Charitable Endowments
Department Nungambakam High Road
Chennai- 600 034.
- 4 The Collector
Office of the Collectorate
Rajaji Salai
Chennai-600 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the notice of the first respondent bearing No.A2/6240/2016 dated 23.11.2016 and quash the same

For Petitioner: Mr.A.Jenasenan

For Respondent: Mr.R.Rajeswaran

Spl. Govt. Pleader - for R1 & R4

Mr.M.Maharaja

Spl. Govt. Pleader - for R3

No appearance - for R2

ORDER

The petitioner has filed the above writ petition to issue a Writ of certiorari, to call for the notice of the first respondent dated 23.11.2016 and to quash the same

2. It is the case of the petitioner that the 1st respondent issued the patta in her favour in the year 2012. Subsequently, the 2nd respondent gave a representation to the 1st respondent to cancel the patta issued in favour of the petitioner in the year 2012. After receiving the representation from the 2nd respondent, the 1st issued the impugned notice dated 23.11.2016, calling upon the petitioner to appear before him for producing the necessary documents to establish her right. Challenging this notice, the petitioner has filed the above writ petition.

3. Mr.A.Jenasenan, learned counsel appearing for the petitioner submitted that when the 1st respondent had issued the patta in favour of the petitioner as early as in the year 2012, the 2nd respondent cannot seek for cancellation of the patta, that too, before the very same Tahsildar and that remedy open to the 2nd respondent is to go before a civil court to establish the right over the property. Further, the learned counsel submitted that the 1st respondent should not have entertained the representation of the 2nd respondent and issued the impugned notice to the petitioner.

4. Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 and 4 and Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 2 and 3 submitted that the 1st respondent had issued only a notice calling upon the petitioner to produce all the relevant documents to establish title over the property and therefore, the issuance of notice has been challenged in the present writ petition.

5. On a careful perusal of the materials available on record and the submissions made by the learned counsel on either side, since the petitioner has challenged only the impugned notice dated 23.11.2016 calling upon the petitioner to produce all the supportive documents to establish her right and title over the property, the petitioner could have produced all the relevant documents in support of her claim and made her submissions before the 1st respondent. Mere issuance of notice cannot be found fault by the petitioner. In these circumstances, I am not inclined to interfere with the impugned notice dated 23.11.2016. However, I direct the petitioner to produce all the relevant documents and also file her reply before the 1st respondent in support of her contentions. The 1st respondent is directed to pass orders in accordance with law, after giving an opportunity of personal hearing to the petitioner as well as to the 2nd respondent.

With these observations the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rj
To

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Rajaji Salai
Chennai-600 001

+ 1 cc to Mr.A. Jenasenan, Advocate Sr.48919
+ 1 cc to Government Pleader Sr.49105
+ 1 cc to Mr. S.D. Ramalingam, Advocate Sr.48756

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CS-V
EU 27.7.17

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