

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017
CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.36421 of 2006

M. Rajendran

... Petitioner

Vs.

1) The Tahsildar,
Mannargudi Taluk,
Mannargudi.

2) G.Rajagopal

3) G.Ramamoorthy

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for the records of the order passed by the first respondent in No. Tho.Mu.Pa.No.111/97-98/2/Aa7 dated 30.08.1997.

For Petitioner : Mr.R.N.Amarnath

For R1 : Mr.R.S.Selvam,
Government Advocate

For RR2 & 3 : Mr.Arichandran for
M/s S.N.Ravikumar

O R D E R

Heard Mr.R.N.Amarnath, learned counsel for the petitioner and Mr.R.S.Selva, learned Government Advocate appearing for the first respondent and Mr.Arichandran for M/s S.N.Ravikumar appearing for the second and third respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorari, to call for the records of the order passed by the first respondent in No. Tho.Mu.Pa.No.111/97-98/2/Aa7 dated 30.08.1997. "

3. The case of the petitioner is as follows:

The petitioner has purchased an agricultural land in Survey No.130A/2A2 to an extent of 0.17.0 hec and survey No.130A.3A to an extent of 0.13.0 hec along with other lands from one Peddaperumal and Govindarajan through a registered sale deed in document No.597/1990 dated 19.07.1990 on the file of Sub Registrar, Ullikottai, Tiruvarur District. After the purchase of land by the petitioner, patta has been issued for the entire

extent of land in the name of the petitioner by the Revenue Department.

4. Ever since the purchase of the land, the petitioner has been in possession and enjoyment of the property without any interference. In the year 1994, the petitioner had submitted an application to the first respondent to survey the land and fix the boundaries belonging to the petitioner, as per the revenue records and on the basis of the sale deed and patta issued to him. In response to the application, boundaries were demarcated by proceedings of the first respondent dated 26.04.1994. After fixing the boundaries, the petitioner and the second respondent have been in enjoyment of their respective properties and they are in occupation of the same.

5. In the meanwhile, when the petitioner approached the first respondent for re-survey, to the shock and surprise of the petitioner, the first respondent by proceedings dated 30.08.1997 had corrected the measurements recorded in Updating the Registry Scheme (UDRS) of the year 1986 and in case of such correction, the land to an extent of 0.17.0 hec in Survey No.130A/2A2 has been reduced as 0.16.0 hec and in respect of the remaining land to an extent of 0.10.0 hec, a new sub division has been made under Survey No.130A/9 for which patta is issued in the name of the second respondent. Also, the land to an extent of 0.13.0 hec in Survey No.130A/3A which belongs to the petitioner has been altered and reduced as 0.12.0 hec and in respect of the remaining 0.01.0 hec, the same has been sub divided as S.No.130A/3A2 and the patta has been issued in favour of the second respondent. According to the petitioner, both the proceedings were issued by the first respondent dated 30.08.1997. Not even a copy of the notice was issued to the petitioner nor any explanation called for when such adverse orders came to be issued. In the said circumstances, the petitioner has approached this Court assailing the impugned proceedings dated 30.08.1997 of the first respondent.

6. Upon notice, Mr.R.S.Selva, learned Government Advocate has entered appearance on behalf of the first respondent and filed a counter affidavit on 30.10.2017. Mr.Ar Chandran for M/s S.N.Ravikumar has entered his appearance for the second and third respondents.

7. According to the counter affidavit, proceedings of the first respondent in F.Dis.111/97-98/2A7 dated 30.08.1997 was issued for rectifying the mistake that had taken place in the UDR scheme and the writ petitioner has not made any representation against the impugned order to the Authorities for seeking remedy.

8. At this juncture, learned counsel for the petitioner would submit that the impugned order dated 30.08.1997 was not made known to the petitioner for several years and he came to know about the order only in the year 2006 and therefore, he had approached this Court challenging the proceedings of the first respondent in F.Dis.111/97-98/2A7 dated 30.08.1997. The learned counsel for the petitioner reiterated that it is incumbent upon the authority to issue notice to the parties concerned before any order is issued, altering the measurements of the land in question. In such circumstances, the impugned order is liable to be interfered with by this Court, as the said proceedings came to be passed in utter violation of the basic principles of natural justice.

9. The fact that no prior notice was issued to the petitioner is not a dispute. In the aforesaid circumstances, this Court has no hesitation to allow the writ petition and the impugned order dated 30.08.1997 is set aside and this Court directs the first respondent to consider the entire issue afresh after giving notice to the petitioner and other parties concerned. The first respondent is also directed to pass orders only after providing reasonable opportunities to both the parties concerned on merits and in accordance with law within a period of 3 months from the date of receipt of a copy of this order. Hence, the Writ Petition stands Allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Tahsildar,
Mannargudi Taluk,
Mannargudi.

+1cc to Mr.R.N.Amarnath, Advocate, S.R.No.76605
+1cc to M/s S.N.Ravikumar, Advocate, S.R.No.76523
+1cc to the Government Pleader, S.R.No.77196

W.P.No.36421 of 2006

KGK(CO)
CS/30/11/17