



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) No.9578 of 2017

and

W.M.P. (MD) .No.7306 of 2017

M.Subramani

... Petitioner

Vs.

1.The Sub Collector,
Dindigul Division,
Dindigul, Dindigul District.

2.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

3.Velmurugan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 1st respondent in his proceedings vide Ni.Mu.5818/2013/A4, dated 04.05.2017 and quash the same as illegal and consequently direct the 1st respondent to restore the joint patta bearing number 3603 issued by the 2nd respondent in the name of the petitioner and seven others.

For Petitioner : Ms.K.Kanimozhy

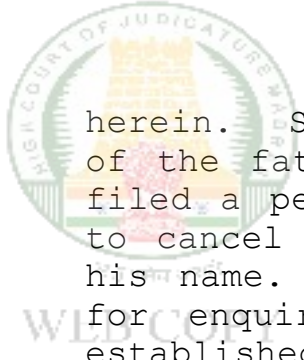
For Respondents 1 & 2 : Mrs.S.Bharathi,
Government Advocate

O R D E R

This writ petition has been filed by the petitioner challenging the order passed by the first respondent, dated 04.05.2017, whereby and whereunder the first respondent has cancelled the joint patta issued in favour of the petitioner and seven others, including the third respondent herein, in respect of Survey No.52/1A at Kanavaipatti Village, Nilakottai Taluk.

2.The learned Government Advocate takes notice for the official respondents. By consent, the writ petition itself is taken up for final disposal. In view of the order passed in this petition, notice to the third respondent is dispensed with.

3.The learned counsel for the petitioner submitted that the property comprised in S.No.52/1A is the ancestral property of the petitioner and seven others, including the third respondent



herein. Stating that the said property is the absolute property of the father of the third respondent, the third respondent has filed a petition before the Revenue Divisional Officer, Dindigul to cancel the joint Patta bearing No.3603 and to issue patta in his name. The Revenue Divisional Officer called the petitioner for enquiry and the petitioner has appeared for enquiry and established his case with supporting documents. The Village Administrative Officer of Kanavaipatti Village has also submitted his report on 08.06.2015, in this regard. Thereafter, the matter has been kept pending without any progress. While so, the first respondent herein viz., the Sub Collector, Dindigul Division, Dindigul, has issued summons to the petitioner on 28.03.2017 directing the petitioner to appear for enquiry and accordingly, the petitioner appeared for enquiry on 17.04.2017 before the first respondent and informed about the pendency of the civil suit in O.S.No.282 of 2015 on the file of the learned Additional Sub Judge, Dindigul, in respect of the very same property in Survey No.52/1A. But, without considering the same and without affording sufficient opportunity, the first respondent has passed the impugned order, only based on the documents produced during the year 2013, that too before the Revenue Divisional Officer, Dindigul. Hence, the impugned order is liable to be set aside.

4.The learned Government Advocate appearing on behalf of the respondents submitted that based on the documents produced, the impugned order has been passed and therefore, the same need not be interfered with.

5. A perusal of the impugned order shows that the first respondent did not aware about the pendency of the suit in O.S.No.282 of 2015 filed by one of the pattadhars disputing title in respect of the very same property. Further, the first respondent did not assign valid reason for cancelling the joint patta. Hence, this Court is inclined to remand the matter for fresh consideration.

6.In view of the above, the impugned order dated 04.05.2017 is set aside and the same is remanded back to the file of the first respondent for fresh consideration, after affording an opportunity of personal hearing to the petitioner and the third respondent herein, within a period of four weeks from the date of receipt of a copy of this order.

7. This Writ Petition shall stand disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)



To

1.The Sub Collector,
Dindigul Division,
Dindigul, Dindigul District.

2.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.57670
+1cc to M/s.K.KANIMOZHY Advocate in SR. No.57264

GCG
JS/SV/SAR.2/8.6.2017/3P-5C

W.P. (MD) No.9578 of 2017
24.05.2017