

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 19.11.2018  
CORAM  
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN  
W.P.No.32492 of 2012  
and M.P.Nos. 1 & 2 of 2012

Chakrapani

..Petitioner

Versus

1. The District Collector,  
Villupuram District,  
Villupuram.

2. The Revenue Divisional Officer,  
Villupuram District,  
Villupuram.

3. The Thasildhar,  
Villupuram.

4. Panneerselvam

5. Thiruvengadam

..Respondents

(Respondents 4 & 5 are impleaded as per order 19.12.2012  
by NPVJ in M.P.No.3 of 2012 in W.P.No.32492 of 2012)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of 3<sup>rd</sup> respondent dated 04.09.2012 in respect of S.No.110/1 and 2 at Poonthotam village, Villupuram taluk illegally integrating the sub divisions 1 and 2 in S.No.110 and quash the same and thereby direct the respondents to restore the sub divisions in the above survey number and also to restore patta for the said property in favour of the petitioner.

For Petitioner : Mr.N.suresh

For Respondents R1 to R3 : Ms.M.Lalitha  
(Government Advocate)

O R D E R

The writ petition has been filed seeking to issue a writ of Certiorarified Mandamus to call for the records of 3<sup>rd</sup> respondent, dated 04.09.2012 in respect of Survey No.110/1 and 2 at Poonthotam Village, Villupuram taluk illegally integrating the sub divisons 1 and 2 in Survey No.110 and quash the same and thereby direct the respondents to restore the sub divisions in

the above survey number and also to restore patta for the said property in favour of the petitioner.

2. The petitioner's father had purchased property in Survey No.110, measuring 47 Cents out of a larger area of 67 Cents in Poonthottam, Villupuram on 13.01.1983 for adequate consideration. He had applied for separate patta. The 3<sup>rd</sup> respondent namely the Thasildhar, Villupuram had issued a separate patta in the name of the father of the petitioner on 23.06.1998. The original patta which was Survey No.110 was sub divided and Survey No.110/1 was allotted to the father. The other sub divided portion was allotted to the owner who retained the additional land of 20 cents.

3. The petitioner's father died in the year 2002. Thereafter, the petitioner applied for transfer of patta. Transfer of patta was also granted on 28.10.2009 by proceedings in D4421/2009. Consequently, Survey No.110/1 measuring 47 cents patta was transferred in favour of the petitioner herein. The petitioner claimed that he has been in possession and enjoyment of the property. However, the 3<sup>rd</sup> respondent had passed a further order, according to the learned counsel for the petitioner, without issuing notice to the writ petitioner herein. The said order is dated 04.09.2012. By the said order, the 3<sup>rd</sup> respondent had integrated sub divisions 1 and 2 in Survey No.110 as one unit and the sub divisions were totally removed and it was treated as one whole Unit. I am not going into the merits of the said order, but suffice to mention that this order of the 3<sup>rd</sup> respondent was passed without notice to the petitioner herein.

4. The learned Counsel for the petitioner drew attention of this Court to a reported judgment in (2006)1 M.L.J. 423 dated 27.01.2006, Lingappa Gounder Vs. Palanisamy Gounder and others, where in similar circumstances, this Court had considered the scope of Section 13 of the Tamil Nadu Survey and Boundaries Act, 1923. It was held that issuance of notice under Section 9(2) is mandatory and any order passed without issue of such notice cannot withstand the scrutiny of the Court.

5. In the present case, the petitioner in his affidavit had very specifically stated that the 3<sup>rd</sup> respondent should not have granted patta by integrating the existing sub divisions and including the name of third persons. It must also be mentioned that the persons in whose name that patta was subsequently granted namely Panneerselvam and Thiruvengadam have also been impleaded as parties to the writ petition. At any rate an order passed by the 3<sup>rd</sup> respondent without notice to petitioner cannot be permitted to stand and accordingly, it is quashed and set aside.

6. If any proceedings are to be initiated by the 3<sup>rd</sup> respondent, then notice in proper form is to be issued to the petitioner offering him full opportunity to effectively participate in the proceedings. The patta already in the name of the petitioner will now stand revived and that will continue to operate, till any further orders are passed by the competent revenue officials after following due procedure. The writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vkr/msvm

To

1.The District Collector,  
Villupuram District,  
Villupuram.

2.The Revenue Divisional Officer,  
Villupuram District,  
Villupuram.

3.The Thasildhar,  
Villupuram.

+1cc to Mr.Suresh, Advocate, S.R.No.78985

+1cc to the Government Pleader, S.R.No.79136

W.P.No.32492 of 2012

MG (CO)

rrs 13/12/2018

WEB COPY