

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 26.08.2019
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.15098 of 2013
and
M.P.Nos.1 and 2 of 2013

A.Padma .. Petitioner

Vs

1. The District Collector,
Salem.
2. The Revenue Divisional Officer,
Salem.
3. The Zonal Deputy Tahsildar No.I,
Salem.
4. S.Alagiri
5. Ulaganambi

..Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records in respect of the impugned order passed by the third respondent dated 14.12.2011 in his proceedings Mu.Mu.No.95878/6II (B) 2011 and quash the same.

For Petitioner : Mr.R.Nalliappan

For Respondents : Mr.I.Sathish

Additional Government Pleader
R1 & R3.

R4 & R5 - No appearance

ORDER

The petitioner has filed the writ petition for issuance of Certiorari, to call for the records in respect of the impugned order passed by the 3rd respondent dated 14.12.2011, in his proceedings Mu.Mu.No.95878/6II (B) 2011 and to quash the same.

2. According to the petitioner, he is the absolute owner of the property situated in SF.No. 39/2B2, Narasothipatti Village

in Salem District.

3. The petitioner would allege that the 4th respondent has filed a suit in O.S.No. 153 of 2006 before the Principal Subordinate Court, Salem, for the relief of specific performance and the same has been decreed as exparte. On the strength of the exparte decree, the 5th respondent has applied for patta before the 3rd respondent. Despite objection by the petitioner, the 3rd respondent issued patta infavour of the 5th respondent. Aggrieved over the same, the present writ petition is filed.

4. Mr.R.Nalliappan, the learned Counsel for the petitioner would submit that the suit filed by the 4th respondent in O.S.No.153 of 2006 though decree exparte, but eventually was dismissed, after contest by the Sub Court, Salem on 14.12.2015 and the same was confirmed by the 1st Additional District Court in A.S.No. 30 of 2016. He further added that though the respondents 4 & 5 have failed to establish their case before the Civil Court, the 3rd respondent issued patta in favour of the 5th respondent based on the exparte decree and hence the order impugned in the writ petition has to be set aside.

5. Mr.I.Sathish, learned Additional Government Pleader would submit that after disposal of the suit in O.S.No. 153 of 2006 and based on the representation of writ petitioner 04.03.2012, the 3rd respondent has recommended the 2nd respondent to change patta infavour of the petitioner in respect of the property in dispute.

6. Heard learned counsel for both sides and perused the available materials.

7. Though the respondents 4 & 5 have received the notice and their names are printed in the cause list, none appears for them.

8. In the matter on hand, admittedly the petitioner was issued Patta No. 782 in respect of the property in dispute, however, based on the exparte order passed in O.S.No. 153 of 2006, the 3rd respondent issued patta in favour of the 5th respondent. It is not disputed that subsequently the suit in O.S.No. 153 of 2006 came to be dismissed by the Trial Court after contest and the same was confirmed by the Appellate Court in A.S.No. 30 of 2016.

9. Considering the above facts, in the considered opinion of this Court, the order impugned in the writ petition cannot be sustained. In view of the above, the writ petition is allowed and the order of the 3rd respondent dated 14.12.2011 is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CJ Conf)

/true copy/

Sub Asst. Registrar

kmm
To

1. The District Collector,
Salem.
2. The Revenue Divisional Officer,
Salem.
3. The Zonal Deputy Tahsildar No.I,
Salem.

+1 cc to Government pleader sr73452
+1 cc to M/s.R.Nalliappan Advocate sr72575

W.P.No.15098 of 2013
and
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rsl(co)
aa21/10/2019

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