IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 19.11.2019	Pronounced on: 25.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.17517 of 2019
& W.M.P.No.16992 of 2019

G.Amul ... Petitioner

/versus/

1. The District Collector,
Kanchipuram District.
Collectorate,
Kanchipuram.

2. The Tahsildar,
Solinganallur Taluk,
Kanchipuram District.

3. Menaka ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the impugned order in Na.Ka.No.1010/2019 dated 03.06.2019 issued by the 2nd respondent and quash the same and pass orders.

For Petitioner : Mr.V.R.Kamalanathan
For R1 & R2 : Mr.N.Inbanathan
Additional Government Pleader
For R3 : Mr.G.Rajkumar

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The case of the petitioner is that, the land measuring 68 cents in S.No.203, Semmanchery Village, Kanchipuram District, originally belongs to one Munusamy was inherited by his son Kesava Naidu. After his demise, Kesava Nadu sons Subburayalu Naidu, Nagaiya Naidu inherited the same and divided the property equally as 34 cents each. Subburayalu Naidu sold his share to Krishnappa Naidu on 20.01.1950 and Krishnappa Nadu

sold his share to one Chinnathambi Naicker by sale deed bearing Registration No.142 of 1963. From Chinnathambi Naicker, Kanniappa Chettiar purchased the property on 19.10.1964. From Nagaiah Naidu, Kanniappa Chettiar and C.P.Nataraja Chettiar jointly purchased 24 cents of land under sale deed, registered as document No.3335 of 1964 and the remaining 10 cents of land, Nagaiah Naidu sold 4 (four) cents to one Mr.Varadhan and retained 6(six) cents with held. Mr.Varadhan sold 4 (four) cents to one Kannan and thereafter, Kannan sold that 4 cents to one Thangapandiyan in the year 1983. Thus, Thangapandiyan who was in possession and enjoyment of 4 cents sold it to the petitioner through a sale deed dated 29.11.1995. The property was sub-divided as Survey No.203/1C and Patta No.287 was allotted to the petitioner. This four cents which was purchased by the petitioner from Thangapandiyan was acquired for IT express Highway project vide Award No.7 of 2006 and compensation was paid to the petitioner on 31.03.2006. Six cents of land retained by Nagaiah Naidu was inherited by his wife, son and daughter. On his demise on 05.10.1986, the legal heirs of Nagaiah Naidu released and relinquished their respective shares in the said six cents to one N.Gurusamy. This released and relinquished deeds were duly registered. The petitioner being the wife of Gurusamy, has acquired title over 6 (six) cents of land by virtue of settlement deed executed by one Gurusamy on 13.08.2016. The land comprising of S.No.203 and new S.No.203/1A was wrongly mentioned in the 'A' Register and computer chitta in name of Krishnaveni and MenaKa. Hence, the petitioner gave a representation on 18.06.2017 to the Tahsildar, Sholinganallu Taluk, to remove the said name and incorporate the petitioner's name.

3. Pursuant to her representation, the Tahsildar conducted enquiry and after hearing the parties and considering the report filed by Revenue Inspector, found that Patta and Chitta had been wrongly entered in the name of Krishnaveni and Mrs.Manaka and therefore, recommended for change of Revenue Records in the petitioner's name. Considering the recommendation of the Revenue Inspector, the Tahsildar on 12.08.2017 deleted the name of Krishnaveni and MenaKa in the Patta and incorporated the name of the petitioner in respect of the 6 (six) cents of land and issued Patta No.6449. While so, when she came to know about the attempt by Manaka to change the patta in her name, she gave representation to the 2nd respondent/Tahsildar, on 07.05.2019, enclosing copies of the documents and the order of the 2nd respondent dated 12.08.2017. The present Tahsildar, issued notice for enquiry. Since the original documents were in the bank, the petitioner requested the 2nd respondent/Tahsildar, to postponed the enquiry for

submitting the original documents. Without affording opportunity, the 2nd respondent, passed the order dated 03.06.2019 for cancelling the patta issued and restore the name of Menaka/3rd respondent herein. Hence, the said order of the 2nd respondent is challenged in this Writ Petition.

4. The 2nd respondent has filed counter, wherein, it is stated that his predecessor has issued order dated 12.08.2017 for cancelling the entries made in the name of Krishnaveni and Menaka in respect of S.No.203/1A, Semmanachery Village, Kancheepuram and directed to make entries in the name of the petitioner. However, the perusal of the records shows that the entries of Krishnaveni and Menaka found in "A" Register as original entries. Hence, cancellation of entries if any must have been made only by the Revenue Divisional Officer concerned. More so, perusal of the said order dated 12.08.2017 shows no notice was issued to Krishnaveni and Menaka in this regard. Hence, the said order is liable for cancellation. Accordingly, he has cancelled and restored the name of Krishnaveni and Menaka.

5. In support of this, the Tahsildar has referred some of the judgments and had concluded in his counter saying that the Revenue Authorities should not devolve deep into the disputed question of title, when an application for cancellation of patta is considered. If there is any rival claim, then the course to be adopted by the Revenue Divisional Officer is relegate the parties to the Civil Court.

6. From the sworn affidavit of the 2nd respondent, it is clear that he is aware of the legal position and having found that there is a dispute regarding the entries made by his predecessor, he cannot sit upon as an Appellate Authority to redo it. He should have relegate the parties to approach his superior viz., Revenue Divisional Officer or to go before the competent Civil Court. Contrarily, he has passed the impugned order stating that, the file and records pertaining to the enquiry conducted by his predecessor while issuing patta in the name of the petitioner is not available and in that enquiry, the Krishnaveni and Menaka were not given opportunity before deleting their names and proceeded. Hence, further referring the provisions of Survey and Boundaries Act, to justify his interference. None of the reasons given in the impugned order is correct and relevant.

7. Here is a case where entries in the Revenue records were found to be erroneous and the petitioner has approached the Tahsildar who is the competent Person under Tamil Nadu Patta

Passbook Act to modify or alter the entries in the Register. The Tahsildar, after due enquiry and after hearing the rival parties, had passed the order on 21.12.2017, by issuing patta in favour of the petitioner in respect of S.No.203/1A. The 2nd respondent/Tahsildar, Sholinganallur, has sat upon the decision of his predecessor though knowing fully well that the order of the Tahsildar, Sholinganallur, has to be appealed before the District Revenue Officer, taking advantage of the complaint given by the petitioner, apprehending manipulation of document by Krishnaveni and Menaka had altered the Revenue Records, not only without affording opportunity to the petitioner though time was sought by her, he has also gone to the extent of citing a statute not relevant in his order and arbitrarily with an ulterior motive had removed the name of the petitioner and inserted the name of Krishnaveni and Menaka.

8. This Court, from the impugned order of the 2nd respondent/Tahsildar, Sholinganallur, and the counter he has filed, could not able to come to a conclusion that the 2nd respondent is a man without knowledge of law and Rules. He has passed the order for extraneous reasons. Therefore, the impugned order in Na.Ka.No.1010 of 2019, dated 03.06.2019 is quashed. If at all, the 3rd respondent/Menaka or any other person is aggrieved by the order of the Tahsildar, dated 21.12.2017, granting patta to the petitioner herein, that order has to be challenged by way of appeal before the Revenue Divisional Officer or if so advised, they can approach the Civil Court to establish their title. The manner in which the 2nd respondent/Tahsildar, has usurped the power of his superior as well as the Civil Court and reviewing the order of his own predecessor is not merely improper and illegal, but perverse.

9. With the above observation, the Writ Petition is Allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
   Kanchipuram District.
   Collectorate,
   Kanchipuram.

2. The Tahsildar,
   Solinganallur Taluk,
   Kanchipuram District.

+1cc to M/s.V.R.Kamalanathan, Advocate SR.No.98197
+1cc to M/s.R.Anitha, Advocate SR.No.98631
+1cc to The Government Pleader Sr.No.98425

AKM/06.01.2020 /5P-6C/

order in
Writ Petition No.17517 of 2019