

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.26706 of 2019

and

W.M.P.Nos.26090 and 26091 of 2019

Dr.M.S.Vikram

.. Petitioner

/versus/

1.The Collector,
Thiruvallur District,
Thiruvallur.

2.The Revenue Divisional Officer,
Ponneri Taluk,
Ponneri.

3.The Thasildhar,
Ponneri Taluk,
Ponneri.

4.Mrs.Shanthi

5.Mrs.Sujatha

6.Mrs.Sumathy

7.Mrs.B.Malathy

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari calling for records pertaining to the order dated 14.08.2019 in R.C.978/2018/B2 passed by the 3rd respondent in cancelling the patta bearing No.255 and 259 and quash the same.

For Petitioner

: Mr.G.Mohana Krishnan

For Respondents

: Mr.D.Raja, AGP for 1 to 3

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 3.

2. The case of the petitioner is that the property originally belonged to Sundaramaiah, which devolved upon his mother Shanthi, who in turn settled the property in favour of the petitioner. After the demise of Sunderamaiah, patta was issued in the name of his mother Shanthi and after the settlement, patta was transferred in his name. However, based on the complaint given by Sujatha and others, the Tahsildar conducted an enquiry and cancelled the patta vide impugned order dated 14.08.2019.

3. The grievance of the petitioner is that in the said proceedings, the Tahsildar did not give any opportunity to the petitioner and the order was passed behind his back.

4. Taking note of the submissions made by the petitioner and the impugned proceedings of the Tahsildar, this Court finds that the mother of the petitioner Shanthi was given notice in the enquiry proceedings. She has also participated in the enquiry proceedings and submitted documents for consideration. After considering the representation of Shanthi, claiming right over the property and justifying the transfer of patta, the Tahsildar has found that Shanthi cannot claim absolute right over the property when there is a will executed by Sundaramaiah in favour of Sujatha and others. Further, even otherwise Sundaramaiah has left behind Sujatha and Sudhakar (daughter and son) and both are entitled to succeed the property as per the Hindu Succession Act.

5. Therefore, Shanthi cannot make absolute claim over the father's property. Hence the transfer of patta originally in the year 1995 jointly in the name of Sujatha and Sudhakar being the legal heirs of the Sundaramaiah is correct, wherein, subsequent change in favour of Shanthi and her daughter, the petitioner herein is erroneous.

6. Hence, this Court finds that the petitioner herein claims title only through Shanthi and Shanthi is the person who claims absolute right over the property of late Sunderamaiah. Since Shanthi has been given adequate opportunity to defend her case, the contention of the petitioner that she was not given an opportunity to defend the case falls to ground since the right of the petitioner who derive right only through Shanthi and it gets merged with the right of Shanthi from whom the petitioner claims title.

7. In any case, if at all the petitioner is aggrieved by the order passed by the Tahsildar, he has remedy before RDO and other civil remedies before the appropriate Court. It is always open to him to agitate his right before the appellate authority or before the civil forum. No remedy can be given to him in writ petition.

8. If any appeal is preferred by the petitioner before the RDO, the same need not be rejected as a third party appeal since the petitioner claims title through Shanthi who is the party to the proceedings.

9. Hence, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Collector,
Thiruvallur District,
Thiruvallur.

2.The Revenue Divisional Officer,
Ponneri Taluk,
Ponneri.

3.The Thasildhar,
Ponneri Taluk,
Ponneri.

+1cc to Government Pleader sr.77747

+2cc to Mr.S.Janarthanam, Advocate sr.77253

W.P.No.26706 of 2019

and

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pa(co)
nr 17/10/2019