

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30568 of 2012

and

M.P.Nos.1 & 2 of 2012

G.Shantha

.. Petitioner

-vs-

1. The State of Tamilnadu,
Rep.,by the Secretary to Government,
Revenue Administration, Chennai-9.
2. The Collector,
Dharmapuri District,
Dharmapuri.
3. The Tahsildar,
Pappireddipatti,
Dharmapuri District.
4. M.Palaniswamy,
P.A. to RDO,
Harur (PO), Dharmapuri District.

5.P.Pughazhendi

.. Respondents

[R5 - Impleaded as per order dated 22.11.2012 in
M.P.No.3 of 2012 in W.P.No.30568 of 2012]

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the proceedings of the 3rd respondent in its Ni.Mu.No.10428/2010(B5), dated 04.05.2011 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : RR1 to 3 - Ms.A.Madhumathi,
Special Government Pleader
: R4 - Mr.R.Neelakandan
: R5 - No appearance

ORDER

Heard Mr.V.Vijay Shankar, learned counsel for the petitioner, Ms.A.Madhumathi, learned Special Government Pleader for respondents 1 to 3 and Mr.R.Neelakandan, learned counsel for the 4th respondent.

2.Though notice has been served on the 5th respondent and his name is printed in the cause list, none appears on behalf of the 5th respondent.

3.The petitioner is aggrieved by an order passed by the third respondent dated 04.05.2011, which according to the petitioner was passed without issuing notice to the petitioner and therefore, the petitioner had sought for copy of the order under the Right to Information Act and having obtained it, vide letter dated 12.09.2012, has filed this writ petition.

4.The petitioner's case is that the lands to an extent of 2.63 acres in S.No.8/1 in Pappireddipatti Village belong to one Palani Gounder and his family. His son Pachaiappan and other heirs sold an extent of 1.64 acres to Guruvaboyan and Govindammal by registered sale deed dated 26.03.1979. The petitioner is stated to have purchased the property from those two persons by registered sale deed dated 21.08.1995, and the property is to an extent of 1.64 acres. Thereafter, patta was issued in the name of the petitioner after the property was sub-divided.

5.It is further submitted that after the sale of 1.64 acres, the balance 99 cents were included under new sub-division, viz., S.No.8/1B. The petitioner is stated to have purchased an extent of 4 cents in S.No.8/1B from Sigamani and Palanivel, who were also the legal heirs of Palani Gounder and on 09.03.1998, the petitioner's name was added in patta No.266 jointly with Palanivel and Sigamani.

6.The petitioner's further case is that a suit was filed by one Pachaiappan, which was decreed that he was the owner of the land in S.No.8/1 and the said Pachaiappan filed an application for grant of patta, which has been considered and patta has been

issued in the name of the said Pachaiappan by removing the petitioner's name.

7.The petitioner alleged certain mala fide against the fourth respondent and it may not be necessary to adjudicate into the same in the light of the orders the Court proposes to pass. It is not in dispute that the impugned order has been passed without notice and without opportunity to the petitioner.

8.In the counter affidavit, the third respondent would state that he acted upon the judgment and decree of the District Munsif Court, not as per his whims and fancies. Even assuming that there was a judgment and decree obtained by a third party, when the third party makes a claim for alteration of the revenue records, the Tamil Nadu Patta Passbook Act and the Rules framed thereunder mandate the authority to issue notice to the existing patta holder. This having not been done, the impugned order cannot be sustained.

9.For the above reasons, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the third respondent for fresh enquiry. The third respondent is directed to issue notice to the petitioner and the said Pachaiappan and his legal heirs and other persons, who may have interest in the property, conduct an enquiry and pass orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Secretary to Government,
The State of Tamilnadu,
Revenue Administration, Chennai-9.
2. The Collector,
Dharmapuri District,
Dharmapuri.

3. The Tahsildar,
Pappireddipatti,
Dharmapuri District.

+1 cc to M/s.V.VIJAY SHANKAR,Advocate Sr.No.23803

+1 cc to Government pleader Sr.No.23192

W.P.No.30568 of 2012

PVS (CO)
MJ (25/06/2020)



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