

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.2.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.13528 of 2017 & WMP.Nos.14615 & 37923 of 2017

G.Iniyadyalan

...Petitioner

Vs

1.The District Collector, Villupuram,
Villupuram District.

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

3.The Revenue Divisional Officer-cum-
Sub-Collector, Tindivanam,
Villupuram District.

4.The Tahsildar, Taluk Office,
Tindivanam, Villupuram District.

5.The Surveyor, Taluk Office,
Tindivanam, Villupuram District.

6.M.Ramakrishnan

7.S.Parvathi

8.M.Indira

9.M.Abdul Khader

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records leading to the impugned order of the 1st respondent in Na.Ka.A2/4731/2017 dated 13.4.2017, quash the same and consequently direct the 3rd respondent herein to complete the petitioner's appeal application for cancellation of patta dated 01.6.2015 in accordance with law within stipulated time may be fixed by this Court.

For Petitioner : Mr.J.Agni Selvaraju

For Respondents 1 to 5 : Mrs.A.Sri Jayanthi, SGP

For Respondent-7 : Mr.R.Sivaraman

For Respondents 6, 8 & 9 : No appearance

ORDER

I have heard Mr.J.Agni Selvaraju, learned counsel for the petitioner, Mrs.A.Sri Jayanthi, learned Special Government Pleader appearing for respondents 1 to 5 and Mr.R.Sivaraman, learned counsel for the seventh respondent.

2. This writ petition has been filed challenging an order passed by the first respondent dated 13.4.2017.

3. The impugned order came to be passed on a representation filed by the petitioner on 21.3.2017 seeking to stay of further proceedings for patta transfer in favour of third parties pending disposal of enquiry for cancellation of patta before the third respondent.

4. The petitioner's case is that an extent of 2 acres 66 cents in old S.F. No.157 (new S.F.No.59/4), Salavathi Village, Tindivanam Taluk, Villupuram District was owned by one Mr.Nandagopal Chettiar, who filed an insolvency petition before the Subordinate Court, Cuddalore in I.P.No.36 of 1970 and pursuant to that, his properties were brought to sale and one among the properties was the subject property. One Mrs.Chandravanitha, W/O Kannan purchased an extent of 2 acres and 66 cents in the above said survey number by a sale deed registered as doc.No.290 of 1996 on the file of the Sub-Registrar, Avarapakkam. The said purchaser - Mrs.Chandravanitha sold an extent of 1,740 sq.ft., to one Mr.Pushparaj by sale deed registered as doc.No.536 of 1996. The petitioner purchased the property from the said Mr.Pushparaj by sale deed registered as doc.No.197 of 2002.

5. It appears that the legal heirs of the said Mr.Nandagopal Chettiar and the legal heirs of the said Mrs.Chandravanitha sold an extent of 83 cents in the said survey number to respondents 6 to 9 and based on a request made by them, their names were included in the patta. When the petitioner submitted his objections to the fourth respondent, the same were rejected and the petitioner filed an appeal to the third respondent and the matter is pending.

6. In the meantime, the petitioner gave a representation to the first respondent and it has been disposed of by the impugned order stating that the petitioner has to work out his remedies in the pending civil proceedings and that the outcome of the civil proceedings will be taken note of by the Revenue Authorities.

7. The further case of the petitioner is that there are no civil proceedings initiated by him nor by respondents 6 to 9 and that the impugned communication is an outcome of total non application of mind. In fact, neither in the counter filed by the official respondents nor in the submissions made on behalf of respondents 6 to 9, there is any averment to the effect that the petitioner approached the civil court.

8. The learned counsel for the petitioner is right in submitting that the impugned proceeding is an outcome of total non application of mind. When an appeal is pending before the third respondent, the procedure would be to take the appeal on file, issue notice to all the parties and take a final decision in the matter. However, it appears that the present dispute is on account of demarcation of the property. Though the petitioner contends that the boundaries were not properly marked, there has not been a proper survey done nor a survey is shown to have been done after respondents 6 to 9 purchased the property in the year 2007.

9. The correct procedure that the fourth respondent should have followed was to issue notice to the petitioner and respondents 6 to 9 when they made an application for grant of patta and after surveying the property, the appropriate entries should have been made in the patta. This procedure has not been done. Therefore, prima facie, this Court is of the view that the procedure adopted by the fourth respondent is erroneous. However, taking note of the fact that an appeal is pending before the third respondent, this Court is inclined to pass the following order :

10. The writ petition is allowed, the impugned order is set aside and the third respondent is directed to conduct a survey of the subject property through the fourth respondent after issuing notice not only to the petitioner and respondents 6 to 9, but also to persons, who are likely to be interested and after ascertaining the boundaries of the respective properties and after a thorough enquiry, the third respondent is directed to pass a speaking order on merits and in accordance with law. This direction shall be complied with within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector, Villupuram, Villupuram District.
 - 2.The District Revenue Officer, Villupuram Collectorate, Villupuram District.
 - 3.The Revenue Divisional Officer-cum-Sub-Collector, Tindivanam, Villupuram District.
 - 4.The Tahsildar, Taluk Office, Tindivanam, Villupuram District.
 - 5.The Surveyor, Taluk Office, Tindivanam, Villupuram District.
- +1cc to Mr.J.Agni selvaraju , Advocate SR.No.16106
+1 cc to Government Pleader Sr.No. 16210

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A.SK(28/05/2020)