



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.16342 of 2012

and

M.P. (MD) .No.1 of 2012

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D.V.Balamurali

... Petitioner

Vs.

1.The District Collector,
District Collector Campus,
Tuticorin District.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

3.The Tahsildar,
Ettayapuram Taluk,
Tuticorin District.

4.S.Karuppanan

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in R.T.R.A2/2287/2012 dated 22.10.2012 on the file of the Respondent No.3 and quash the same as illegal and consequently for a direction, directing the respondent No.3 to conduct enquiry and issue patta transfer in the name of the petitioner considering the application of the petitioner dated 26.07.2012 within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathiroy

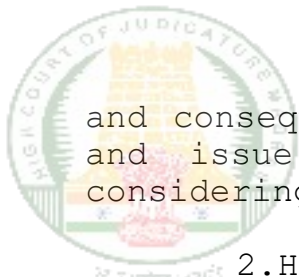
For R1 to R3 : Mr.C.Ramesh
Special Government Pleader

For R4 : Mr.S.J.Chakkravarthy
for M/s.Eddy and Embboss

O R D E R

This writ petition is filed to quash the impugned order passed in R.T.R.A2/2287/2012 dated 22.10.2012 by the third respondent

<https://hcservices.ecourts.gov.in/hcservices/>



and consequently to direct the third respondent to conduct enquiry and issue patta transfer in the name of the petitioner, by considering the application of the petitioner dated 26.07.2012.

2. Heard Mr.T.Lajapathiroy, learned counsel appearing for the petitioner, Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.J.Chakkravarthy, learned counsel appearing for the fourth respondent.

3. By consent of both the parties, this writ petition is taken up for hearing today for final disposal.

4. The case of the petitioner is that the petitioner has purchased the lands measuring to an extent of 0.31.0 cents in Survey No.49/5B situated at Urulaikudi Village, Kovilpatti, Tuticorin District, from one Chinnakaruppan, who is his relatives and the sale deed was also executed on 11.05.2012. Thereafter, the petitioner applied for transferring of patta in his name before the third respondent. But, the third respondent has not considered the claim of the petitioner and it was kept pending. In such circumstances, the third respondent has passed the impugned order dated 22.10.2012 stating that the petitioner has to approach the civil Court. While so, the fourth respondent has preferred an appeal before the second respondent to transfer the patta in his name, wherein the second respondent has passed an order stating that the "land has been subdivided between the brothers and patta has been issued respectively. Hence, it is directed to approach the concerned Court to determine the rights relating to the survey numbers". Aggrieved over the same, the petitioner is before this Court.

5. The learned counsel appearing for the petitioner submitted that the fourth respondent has filed a suit in O.S.No.68 of 2013, before the District Munsif Court, Kovilpatti, for declaration and injunction, and the said suit was dismissed on 07.08.2019. Therefore, there is no legal impediment to consider the petitioner's application.

6. The learned counsel appearing for the fourth respondent submitted that he is not in a position to get instruction from his client. He further submitted that while disposing the petitioner's application, an opportunity shall be given to the private respondent and thereafter, they can pass the final orders.

7. In view of the submissions made on either side, this Court is inclined to quash the impugned order passed in R.T.R.A2/2287/2012 dated 22.10.2012 by the third respondent and remitted back to the third respondent to consider the petitioner's application dated 26.07.2012 afresh and to pass appropriate orders on merits and in accordance with law, after providing opportunity to the petitioner as well as the private respondent, within a period of twelve weeks



8. In the result, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
District Collector Campus,
Tuticorin District.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.
3. The Tahsildar,
Ettayapuram Taluk,
Tuticorin District.

+1 CC to M/s.GP (SR-15695[F] dated 02/09/2020)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-15621[F] dated 02/09/2020)

+1 CC to M/s.EDDY & EMBBOSS LAW FIRM, Advocate (SR-15728[F] dated 03/09/2020)

W.P. (MD) No.16342 of 2012
01.09.2020

SPU (14.09.2020) 3P 7C