



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.2584 of 2020
and W.M.P.(MD).No.2223 of 2020

P.K.Syed Sulaiman

.. Petitioner

Vs.

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.The District Revenue Officer,
Tenkasi District, Tenkasi.
- 3.The Revenue Divisional Officer,
Tenkasi District, Tenkasi.
- 4.The Tahsildar,
Tenkasi Taluk, Tenkasi District.
- 5.The Village Administrative Officer,
Ayirapperi, Tenkasi District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 3rd respondent in his letter Na.Ka.No.Aa6/6752/2019, dated 13.12.2019 and directing the 4th respondent to issue patta in the petitioner's name and in the names of subsequent purchasers from the petitioner for the same survey numbers.

For Petitioner : Mr.C.Masilamani

For Respondent : Mr.C.Ramar
Additional Government Pleader

ORDER

This writ petition is filed to quash the impugned order of third respondent, dated 13.12.2019 and to direct the first respondent to issue patta in the name of petitioner and in the name of subsequent purchasers from the petitioner.

2.The petitioner states that he purchased certain properties namely an extent of 0.06.5 ares in S.No.424/1B1, 0.06.0 ares in



S.No.424/1B2, 0.02.0 ares in S.No.430/4, 0.47.5 ares in 430/5 and 0.03.5 ares in S.No.430/6, totally 0.65.5 ares in Thrikoodapuram of Chillarai Puruvu Village of Tenkasi Taluk.

3.The petitioner's vendor stated to have got the property from his mother by a registered document, dated 10.12.2010. It appears that a dispute arose between the petitioner and some third parties and few suits have been filed. It is admitted that a suit in O.S.No.190/2012 and another suit in O.S.No.174/2012 were filed against the petitioner claiming title over the property which was purchased by the petitioner. It is admitted that the two suits were dismissed and first appeals were also dismissed. It is stated by the petitioner that a third suit was filed by the petitioner for declaration of his title and consequential injunction in O.S.No.19 of 2013 before the Additional Sub Court, Tenkasi and the said suit was also decreed as against a few persons namely one Rajeswaran and two others who had made a rival claim against the petitioner. The petitioner has also transferred the property in favour of his wife and son. It is in these circumstances, the Revenue Divisional Officer has passed the impugned order cancelling the patta in favour of the petitioner and to restore patta in favour of the original owner without considering the judgment of the civil court.

4.Interestingly, the third respondent has filed a counter affidavit admitting the petitioner's title based on Civil Court's decree and further has stated as follows:

"10.This writ petitioner has also not disclosed the material fact i.e., he has applied for name change in patta on 05.12.2019 through online in favour of his wife and son and the name change has been effected on 06.12.2019 through TR:2019/0103/29/215785TR. The writ petitioner has never disclosed the above name change in the writ petition."

5.From the facts narrated above, it is seen that the third respondent has transferred patta in favour of the petitioner's wife and son who derived the title through petitioner. The patta in favour of the petitioner's son and wife was transferred on 06.12.2019. However, the impugned order is passed on 13.12.2019 directing cancellation of patta granted in favour of the petitioner and to restore the patta in the name of previous owner. It is in the said circumstances, the impugned order is quite contrary to the subsequent order transferring patta in favour of petitioner's wife and son. The petitioner, the petitioner's wife and son will be embarrassed later if any one questioned patta in favour of petitioner's wife and son on the ground that the order granting patta in their favour is contrary to the order of Revenue Divisional Officer, dated 13.12.2019. The patta transferred in favour of petitioner's son and wife will also be treated as cancelled. The 3rd



respondent has transferred patta in favour of petitioner's wife and son admitting the title of petitioner.

6.Having regard to the admitted facts and the statement of third respondent in the counter affidavit, this Court is of the view that the petitioner's contention is acceptable. The title was held in favour of petitioner in all three suits. Since the revenue authorities are expected to carry out mutation or modify revenue records on the basis of civil court's decree declaring rights, the impugned order without considering the civil court's decree is inappropriate and illegal. Hence, the impugned order is set aside and the property should be treated as property in the holdings of the petitioner and the mutation of patta in the name of petitioner's wife and son should also be retained. In other words, the impugned order insofar as cancelling the patta in favour of the petitioner is illegal and stands quashed. Consequently, the petitioner's name will also be entered in the revenue records for convenience. The petitioner's son and wife are entitled to get their names included in patta as transferees and the patta in their name need not be modified or disturbed.

7.This writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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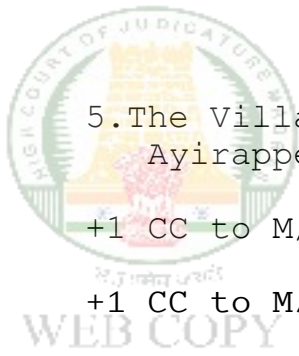
/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.The District Revenue Officer,
Tenkasi District, Tenkasi.
- 3.The Revenue Divisional Officer,
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Tenkasi Taluk, Tenkasi District.



5.The Village Administrative Officer,
Ayirapperi, Tenkasi District.

+1 CC to M/s.C.MASILAMANI, Advocate (SR-7394[F] dated 20/02/2020)

+1 CC to M/s.SPL.GP (SR-7264[F] dated 20/02/2020)

W.P. (MD) .No.2584 of 2020
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