



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11450 of 2011

and

M.P.No.2 of 2011

R.Basker,

... Petitioner

-Vs-

1. The Revenue Divisional Officer,
Namakkal.

2. The Thasildhar,
Namakkal.

3. Lalitha Kumaramangalam

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in respect of the impugned order passed by the first respondent in his proceedings in Na.Ka.8270/2010(A6) dated 01.02.2011 and quash the same.

For Petitioner : Ms.N.Premalatha for Mr.R.Nalliyappan

For R1 & R2 : Mr.M.R.Gokul Krishnan
Government Advocate.

For R3 : Mr.D.Ferdinand for M/s B.F.S Legal

ORDER

This Writ Petition has been filed to issue a writ of certiorari, calling for the records in respect of the impugned order passed by the first respondent in his proceedings in Na.Ka.8270/2010(A6), dated 01.02.2011 and quash the same.

2. Heard Ms.N.Premalatha, learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.D.Ferdinand, learned counsel appearing for the third respondent.



3. The case of the petitioner is that the property comprised in survey No.120/1B to an extent of 1.07 acres situated at Kalyani Village, Namakkal and the property comprised in survey No.121/1B to an extent of 2.69 acres, originally belonged to one Aramayee. The old patta was in the name of one Surendermohan and as such, the said Aramayee applied for transfer of patta in her name. Thereafter, she was issued patta in Patta No.158, dated 02.06.2008. The said properties were purchased by the petitioner through the power of attorney by a registered sale deed dated 09.04.2010 vide document No.2696 of 2010. Thereafter, the petitioner applied patta for the properties purchased by him, before the second respondent. The second respondent, after proper scrutiny, has transferred the patta in favour of the petitioner in Patta No.88. Aggrieved by the same, the third respondent herein applied for cancellation of patta before the first respondent. The first respondent, without considering that the patta was issued in favour of petitioner's vendor-Aramayee, subsequently issued patta in favour of the petitioner, without serving any notice to the petitioner and without conducting any enquiry, passed the impugned order dated 01.02.2011.

4. A perusal of the impugned order dated 01.02.2011 reveals that on receipt of the application from the third respondent dated 13.11.2010 the first respondent verified the records, without issuing any notice to the petitioner herein, without conducting any enquiry with the petitioner and passed the impugned order, thereby cancelling the patta granted in favour of the petitioner in respect of the property comprised in survey Nos. 120/1A and 121/1A. Therefore, it is a clear violation of principles of natural justice and the impugned order passed by the first respondent cannot be sustained as against the petitioner. On this ground alone, the impugned order passed by the first respondent in Na.Ka.No.8270/2010 (A6), dated 01.02.2011 is quashed and the Writ Petition is liable to be allowed and the matter is remanded back to the first respondent for fresh disposal. It is made clear that the first respondent is directed to issue notice to the petitioner as well as the third respondent, after giving an opportunity of hearing to them and pass orders on merits and in accordance with law.

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

Lpp/mn

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1. The Revenue Divisional Officer,
Namakkal.

2. The Thasildhar,
Namakkal.

+1 C.C. to GOVERNMENT PLEADER, HIGH COURT, MADRAS SR.NO.49471
+1 C.C. to M/S. BFS LEGAL SR.NO.49686

W.P.No.11450 of 2011

AK-II (CO)
PM(20/10/2021)