



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.18191 OF 2013

AND

MP.NOS.1 & 3 OF 2013

T.Balakrishnan

... Petitioner

Vs

1. The District Collector,
Ariyalur District,
Ariyalur.

2. The Revenue Divisional Officer,
Ariyalur Division,
Ariyalur District.

3. The Tahsildhar,
Ariyalur Taluk,
Ariyalur District.

4. Venkatesan
(cause title amended as per order dated
23.08.2013 in MP.No.2 of 2013 in
WP.No.18191 of 2013)

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari calling for records pertaining to the orders of the second respondent in Na.Ka.A5/179/2013 dated 31.05.2013 relating to grant of joint of patta in Survey No.1/5A of Nagamangalam Village, Ariyalur Taluk, Ariyalur District and quash the same.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.Richardson Wilson
R1to R3 Government Advocate

For R4 : Mr.V.Raghavachari



O R D E R

Writ Petition has been filed to issue a Writ of Certiorari calling for records pertaining to the orders of the second respondent in Na.Ka.A5/179/2013 dated 31.05.2013 relating to grant of joint of patta in Survey No.1/5A of Nagamangalam Village, Ariyalur Taluk, Ariyalur District and quash the same.

2. The case of the petitioner is that the petitioner purchased the property to an extent of 2.64 acres of dry lands comprised in Survey No.1/5A, out of the total extent of 6.84 acres situated at Nagamangalam village, Ariyalur Taluk, Ariyalur District by the registered Sale Deed dated 22.09.2008. Originally the said property belonged to one Viswanatha Asari who had two sons, Saminatha Asari and Gangachala Asari. After the death of the Viswanatha Asari, his two sons were enjoying the same and there was a family partition in the year 1984. Accordingly, they were allotted equal shares. The share allotted in favour of the Saminatha Asari was purchased by the petitioner. Thereafter, he applied for patta before the third respondent and after conducting detailed enquiry, the third respondent issued separate patta in favour of the petitioner by the proceedings dated 03.11.2008. During the life time of the said Saminatha Asari, he filed suit in O.S.No. 185/1989 as against his brother Gangachala Asari on the file of the District Munsif, Ariyalur claiming exclusive right and title over the entitle properties ignoring the family arrangement. Therefore, the said suit was dismissed by the Judgment and Decree on 31.03.1992. In fact, the appeal was also dismissed and the Judgment and Decree passed by the trial Court had become final.

3. While being so, the fourth respondent filed a suit in O.S.No.36 of 2009 on the file of the District Munsif, Ariyalur for declaration for the very same property disputing title over the property whether the legal heirs of the Saminatha Asari or the legal heirs of the Gangachala Asari having valid title to convey the property. While pending suit, the fourth respondent approached the first respondent for seeking patta in his favour for the very same property. The same was forwarded to the second respondent and the second respondent treated the said request as an appeal as against the Order passed by the third respondent on 03.11.2008.

4. On perusal of the orders passed by the second respondent revealed that on receipt of the report from the third respondent canceled the patta issued in favour of the petitioner and transferred the patta in favour of the fourth respondent herein. Admittedly, no notice was issued to the petitioner and



no enquiry was conducted. Only on receipt of the report from the third respondent, the second respondent passed the impugned order. That apart, the civil suit filed by the fourth respondent is still pending in O.S.No.36 of 2009 on the file of the District Munsif Court, Ariyalur seeking declaration of the very same property. However, the second respondent without issuing any notice to the petitioner and without conducting any enquiry passed the impugned order. It clearly violates the principles of natural justice and it cannot be sustained as against the petitioner.

5. In view of the above, the impugned order dated 31.05.2013 is quashed. It is remanded back to the second respondent for passing fresh orders. The second respondent is directed to issue notice to the petitioner and the parties concerned and after giving opportunity of hearing to them and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

6. With the above directions, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

lok/rgi

To

1. The District Collector,
Ariyalur District,Ariyalur.
2. The Revenue Divisional Officer,
Ariyalur Division,Ariyalur District.
3. The Tahsildhar,
Ariyalur Taluk,Ariyalur District.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.49345

W.P.No.18191 of 2013

KSM(CO)
PM/22/10/2021