



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM

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

W.P.No.16592 of 2016
and
WMP Nos.14328 & 14329 of 2016

V.Krishnamurthy

...Petitioner

Vs

1. Assistant Settlement Officer (North),
Commissionerate of Land Administration,
III Floor, Revenue House,
Chepauk, Chennai - 600 005.
2. The Tahsildar,
Alandur
Kancheepuram District.
3. Government of Tamil Nadu,
Rep. by its Secretary Revenue Department,
Fort St.George, Chennai - 600 009.

...Respondents

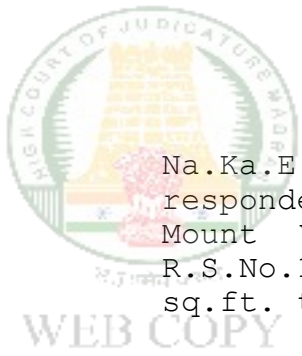
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus, calling for the records relating to order passed by the first respondent dated 26.11.2015 in Na.Ka.E.1/3897/04 and quash the same and consequently direct the respondents to grant patta for Door No.18, G.S.T. Road, Thomas Mount Village, Saidapet, Chengalpet District comprising in R.S.No.160, ad-measuring an extent of 4 acres and 22616 sq.ft. to the petitioner.

For Petitioner : Mr.G.Rajagopalan,
Senior Counsel
for M/s.G.R.Associates

For Respondents : Mr.M.R.Gokul Krishnan,
Government Advocate

O R D E R

This writ petition has been filed to issue a writ of certiorarified mandamus calling for the records relating to order passed by the first respondent dated 26.11.2015 in



Na.Ka.E.1/3897/04 and quash the same and consequently direct the respondents to grant patta for Door No.18, G.S.T. Road, Thomas Mount Village, Saidapet, Chengalpet District comprising in R.S.No.160, ad-measuring to an extent of 4 acres and 22616 sq.ft. to the petitioner.

2. The petitioner purchased the property situated at Door No.18, G.S.T. Road, Thomas Mount Village, Saidapet, Chengalpet District comprising in R.S.No.160, by a registered sale deed dated 14.02.1992 vide document No.483 of 1992 on the file of the Sub Registrar, Alandur. Thereafter, the petitioner came to understand that the land was sought to be resumed by the Government after issuing a notice. Therefore, the petitioner submitted an application before the second respondent for Ryotwari patta for the said property.

3. In this regard, the petitioner also filed a writ petition before this Court in W.P.No.20542 of 1992 and this Court, by an order dated 28.08.2000, directed the first respondent herein to pass orders on merits on the representation of the petitioner for issuance of patta. However, it was rejected on the ground that no documents were filed and without dealing with any of the petitioner's contention. Therefore, the petitioner filed another writ petition in W.P.No.10075 of 2004 to set aside the said order. This Court by an order dated 22.04.2013 disposed of the writ petition with the following directions :

"10. In this connection, a reading of the impugned order itself would go to show that no opportunity has been given to the petitioner before passing the impugned order. Anyhow, considering the facts and circumstances of the matter, in order to provide with yet another opportunity to the petitioner, the matter is remitted back to the second respondent, who in turn, on receipt of the same shall give notice to the petitioner and proceed further in accordance with law.

11. With the above observation, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed. "

4. As directed by this Court, the first respondent issued notice to the petitioner as well as the Tahsildar of Kancheepuram and Saidapet. In fact, the petitioner engaged a counsel and filed necessary documents for hearing. On receipt of the same, the first respondent repeatedly adjourned the enquiry for non-filing of report by the Tahsildar. While being so, the petitioner received an impugned order dated 26.11.2015, thereby rejected the request made by the petitioner.



5. Mr.G.Rajagopalan, the learned Senior Counsel appearing for the petitioner submitted that when this Court subsequently directed the first respondent to conduct an enquiry after giving an opportunity of hearing to the petitioner. However, the first respondent, without giving any opportunity of hearing to the petitioner and without allowing any documents to be filed from the petitioner or his counsel, mechanically passed orders on perusal of the records. Therefore, it is clear violation of principles of natural justice.

6. The first respondent filed a counter stating that the necessary opportunity was provided to submit his oral and documentary evidence. Accordingly, the petitioner has produced documents before the Assistant Settlement Officer (North). Therefore, the direction issued by this Court has been duly complied with. It is further stated that the Assistant Settlement Officer (North) has conducted enquiry in a detailed manner and on perusal of the documents produced by the petitioner, the Assistant Settlement Officer has come to the conclusion and passed an order as per law. The petitioner, instead of explaining his side in the light of the said Act, just falsely alleged that he was not given opportunity. During enquiry, he never engaged his stand as to how the suit lands attract the Tamil Nadu Act 27 of 1963.

7. Heard, Mr.G.Rajagopalan, the learned Senior Counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents.

8. It is seen from the above stand taken by the first respondent, the petitioner submitted all the documents even thereafter, the matter was repeatedly adjourned on several occasions. It is also evident from the notices issued by the first respondent for enquiry to the petitioner as well as the Tahsildar of Kancheepuram and Saidapet.

9. On perusal of the impugned order there is no reference about the documents produced by the petitioner and nothing is whispered about the opportunity of hearing from the petitioner or his counsel. The documents were produced by the petitioner through his counsel. Therefore, the first respondent failed to give an opportunity of hearing to the petitioner and passed impugned order. On this ground alone, the impugned order is liable to be set aside.

10. In view of the above, the Writ Petition stands allowed. The matter is remanded back to the first respondent for fresh enquiry. The first respondent is directed to issue notice to the petitioner and the parties concerned and after giving an opportunity of personal hearing to the petitioner and pass



orders on merits and in accordance with law. It is made clear that whatever the documents filed by the Tahsildar in respect of their claim, the petitioner is entitled to have copy of the same during enquiry. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. Assistant Settlement Officer (North),
Commissionerate of Land Administration,
III Floor, Revenue House,
Chepauk, Chennai - 600 005.
2. The Tahsildar,
Alandur
Kancheepuram District.
3. The Secretary Revenue Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

+1 CC to M/s.G.R.Associates, Sr.No. 42957.
+1 CC to The Government Pleader, Sr.No. 43402.

W.P.No.16592 of 2016
and
WMP Nos.14328 & 14329 of 2016

RGN(CO)
LS(24/09/2021)