IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.23455 OF 2013
AND
M.P.NOS.1, 2 OF 2013

L.Thandavarayan

... Petitioner

Vs

1. The District Collector,
   Tiruvannamalai District, Tiruvannamalai.

2. The District Revenue Officer,
   Tiruvannamalai, Tiruvannamalai District.

3. The Tahsildar,
   Tiruvannamalai, Tiruvannamalai District.

4. Elumalai

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records and to quash the impugned order passed by the second respondent herein vide Mu.Mu.(M1) 27803/2012 dated 30.10.2012 and to direct the respondents 1 to 3 to not to proceed with the impugned order and further direct the respondents 2 and 3 to maintain the Revenue Records of the petitioner as unaltered.

For Petitioner : Ms.S.Suseela Devi
For Respondents 1 to 3 : Mr.Richardson Wilson, Government Advocate
For Respondent 4 : No Appearance

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records and to quash the impugned order passed by the second respondent herein vide Mu.Mu.(M1) 27803/2012 dated 30.10.2012 and to direct the respondents 1 to 3 to not to proceed with the impugned order and further direct the respondents 2 and 3 to maintain the Revenue Records of the petitioner as unaltered.

2. The petitioner's father Late.Lakshmana Gounder had purchased an agricultural land from P.Subbarayan to an extent of 2.72 acres under a registered sale deed dated 03.08.1973 registered vide Document No.1016 of 1973. Subsequently, in the year 1977 he had purchased adjacent land from Govindasamy Chetty and Gopal Chetty by a registered sale deed dated 17.03.1977 vide Document No.248 of 1977.

3. After his demise, the petitioner and his brother are being the legal heirs derived title and they were issued joint patta No.386 to an extent of 2-10.00 hectares. Though the sale deed stood in his father's name to an extent of 4.72 acres, in the patta they mentioned 5.18 acres. Thereafter, the partition was affected between the petitioner and his brother in the year 2009 and the same was registered vide Document No.1103 of 2009 dated 23.07.2009.

4. However, thereafter his brother sold out his share in favour of the petitioner by the registered sale deed dated 22.10.2009 vide Document No.1492 of 2009, thus the petitioner became absolute owner of the entire property. While being so, the fourth respondent who is adjacent land owner on the northern side of the petitioner's land claimed the excess property from the petitioner's patta in patta No.386 to an extent of 34 cents. Therefore, the fourth respondent approached the second respondent to cancel the patta issued in favour of the petitioner. The second respondent by the order impugned in this writ petition dated 30.10.2012 consider the request of the fourth respondent and directed the third respondent to demarcate the land admeasuring 34 cents as claimed by the fourth respondent from the total extent comprised in Survey No.175/2 to an extent of 2-10.00 hectares and issued patta for the said land

in favour of the fourth respondent and mutate the Revenue records accordingly.

5. The learned counsel for the petitioner would submit that now the fourth respondent claimed the excess extent of 34 cents from the center place of the total extent instead of taking the adjacent to his patta land.

6. Admittedly, the petitioner and his brother were issued patta to an extent of 2-10.00 hectares namely 5.18 acres. As per their father's sale deed he purchased only an extent of 4.72 acres. However, they were issued patta for the total extent of 5.18 acres. Therefore, they had no objection to demarcate the excess land from the total extent in favour of the fourth respondent. However, the fourth respondent claimed middle of the portion of the subject property. Therefore, the third respondent is directed to survey the subject property in accordance with the sale deed dated 03.08.1973 and 17.03.1977 purchased by the petitioner's father and also the documents produced by the fourth respondent and demarcate the same.

7. After demarcation, the excess land to an extent of 34 cents is directed to be alloted in favour of the fourth respondent in accordance with the documents produced by the fourth respondent with the boundaries. It is also made clear that, if necessary the third respondent is directed to measure the adjacent land of the petitioner's property in accordance with their documents and demarcate the excess land.

8. With the above directions, this writ petition is disposed of. No order as to costs. Consequently, the connected M.P.Nos.1, 2 of 2013 is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

rna

To

1. The District Collector,
   Tiruvannamalai District,
   Tiruvannamalai.

2. The District Revenue Officer,
   Tiruvannamalai,
   Tiruvannamalai District.

3. The Tahsildar,
   Tiruvannamalai,
   Tiruvannamalai District.

+1cc to M/s.S.Suseela Devi, Advocate, S.R.No.54440

+1cc to the Government Pleader, S.R.No.55062

W.P.No.23455 of 2013
and M.P.Nos.1, 2 of 2013

RLD(CO)
RLP(15/11/2021)