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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.NO.4916 OF 2021

N.Murugan

... Petitioner

Vs

1. The District Collector,
Thiruvallur,
Thiruvallur District
2. The Divisional Revenue Officer,
Thiruvallur, Thiruvallur District
3. The Thasildhar,
Thiruvallur Taluk,
Thiruvallur District
4. The Assistant Director,
Land Survey and Record,
Thiruvallur, Thiruvallur District
5. M/s.Jemi Ethiraj Promoters Private Limited,
Represented by its Proprietor S.Jayaraj,
No.709, SBOA School, East Gate Street,
Anna Nagar West, Chennai 600 101

(R5 impleaded vide order dated 22.06.2021
in WMP.No.6659 of 2021 in WP.4916 of 2021) ... Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings vide Naka.No.07/2021(Nee A) dated 16.02.2021 on the file of the Thasildhar, Thiruvallur and quash the same and consequently direct the respondents to measure the land and issue sub divisional patta in petitioner's name and consequently direct the respondents.



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For Petitioner : Mr.Patricks

For Respondents

For R1 to 4 : Mr.P.Baladhandayutham,
Special Government Pleader

For R5 : M/s.Shaikh Mehrunissa

ORDER

The petitioner filed this writ petition to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings vide Naka.No.07/2021(Nee A) dated 16.02.2021 on the file of the Thasildhar, Thiruvallur and quash the same and consequently direct the respondents to measure the land and issue sub divisional patta in petitioner's name and consequently direct the respondents.

2. Heard, Mr.Patricks, the learned counsel for the petitioner, Mr.P.Baladhandayutham, Special Government Pleader appearing for the respondents 1 to 4, and M/s.Shaikh Mehrunissa, the learned counsel for the fifth respondent.

3. The petitioner's wife was settled the property comprised in survey No.440/1A to an extent of 50 cents situated at Mappadu Village, Tiruvallur by her father by the settlement deed dated 17.02.2011 registered vide document No.475 of 2011. Unfortunately, his wife died on 28.11.2012 leaving behind the petitioner and her children as her legal heirs. After demise of his wife, his father in law unilaterally cancelled the settlement deed by deed of cancellation dated 27.12.2012 registered vide document No.4901 of 2012. Therefore, the petitioner challenged the same in the suit in OS.No.136 of 2014 on the file of the Additional District Munsif, Tiruvallur. While pending the suit, his father in law executed sale deed in favour of the fifth respondent herein in respect of the subject property. The said suit was decreed by the judgment and decree dated 13.07.2020. On the strength of the decree, the petitioner applied for patta before the third respondent. It was rejected for the reason that though the petitioner's wife was settled with the subject property to an extent of 50 cents comprised in survey No.440/1A, there is no demarcation and there is no boundary for the said property, since it was settled from the total extent of 2.25 acres comprised in survey No.440/1A situated at Mappadu Village, Tiruvallur. That apart, the



petitioner is not in possession and enjoyment of the said property, since after purchase of the property, the fifth respondent is in possession and enjoyment of the same.

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4. The learned counsel for the fifth respondent submitted that the decree obtained by the petitioner is an exparte decree and now the fifth respondent has filed petition to set aside the exparte decree dated 13.07.2020 and it is pending.

5. That apart, on perusal of the settlement deed, revealed that the subject property was settled in favour of the petitioner's wife as 50 cents out of 2.25 acres comprised in survey No.440/1A without any boundaries. Therefore, though the petitioner succeeded in the suit, only after demarcation of the property and after recovery of possession, he is entitled for patta. As such, the third respondent rightly rejected the request of the petitioner and this Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is devoid of merits.

6. Accordingly, this writ petition is dismissed. After demarcation of the subject property and recovery of possession, the petitioner can very well approach the third respondent for issuance of patta. It is also made clear that the petitioner is at liberty to make necessary application for demarcation of the subject property. No order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thiruvallur,
Thiruvallur District
2. The Divisional Revenue Officer,
Thiruvallur, Thiruvallur District



3. The Thasildhar,
Thiruvallur Taluk,
Thiruvallur District

4. The Assistant Director,
Land Survey and Record,
Thiruvallur, Thiruvallur District

+lcc to Mr.K.R.Gunashekar, Advocate, SR.No.69194
+lcc to Government Pleader, SR.NO.69542

WP.No.4916 of 2021

CP(CO)
PM/11/01/2022