IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.6788 of 2021

S.A.Bhimaraja ... Petitioner

Vs.

1.The District Collector
Chengalpattu District.

2.The District Revenue Officer
Chengalpattu District.

3.The Revenue Divisional Officer
Chengalpattu Region.

4.The Tahsildar
Thiruporur Taluk
Chengalpattu District.

5.R.Mohan Ranganathan ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 4 to cancel the patta issued to the 5th respondent which was obtained by him by playing fraud during the pendency of the appeal suit in A.S.No.35 of 2002, pending on the file of the Sub Court, Chengalpattu, without making any further delay.

For Petitioner : Mr.K.Mahalingam

For Respondents : Mr.S.N.Parthasarathi
Government Advocate [R1 to R4]

M/s.K.Aswin Devi
S.T.Bharath Gowtham [R5]

ORDER

This writ petition is filed for issuance of writ of Mandamus, to direct the respondents 1 to 4 to cancel the patta issued to the fifth respondent which was obtained by him by playing fraud, during the pendency of the appeal suit in A.S.No.35 of 2002, on the file of the Sub Court, Chengalpet.

2. Mr.S.N.Parthasarathi, learned Government Advocate takes notice for the respondents 1 to 4.

3. The learned Government Advocate made a statement on instructions that initially the patta of the property in S.No.223/2 stood in the name of the petitioner and the fifth respondent herein had moved the third respondent/ Revenue Divisional Officer (hereinafter referred to as RDO), for cancellation of the said patta and issuance of patta in his name. The RDO passed an order canceling the patta in the name of the petitioner on 19.05.2011.

4. The learned Government Advocate added that as per the instructions, the petitioner participated to the said proceedings and the order itself was a speaking order. Subsequently, the petitioner has challenged the order of the RDO before the District Revenue Officer (hereinafter referred to as DRO) and the DRO confirmed the order of the RDO on 30.11.2011.

5. The challenge as already indicated relates to the mutation of patta by the Tahsildar sometime in 2011, when a civil appeal in A.S.No.35 of 2002 was pending. The course of the case substantially forms the core of W.P.No.4713 of 2019, except that the petitioner and the property involved in this case and in W.P.No.4713 of 2019 were different. Both the petitioner herein and those in W.P.No.4713 of 2019 claim title to their respective property under one Mehrunissa, against whom a certain Kabir, and two others have jointly filed O.S.No.8667 of 1985 before the City Civil Court, and severally filed O.S.Nos.159 of 1986 to 161 of 1986, before the Civil Court in Chengalpattu, and surprisingly for the same relief. Kabir & Co won the suit filed in Chennai, but lost the same cause before the Chengalpattu Court. These were the crux of the allegations in W.P.No.4713 of 2019 as well.

6. The perusal of the affidavit in this case nowhere indicates the specific proceedings by which patta was stated to have been granted to the 5th respondent. And this grant of patta is stated to have been made during the pendency of A.S.No.35 of 2002. But it is conceded that A.S.No.35 of 2002 was dismissed on 16-03-2016. Therefore, the patta which the petitioners now alleges ought to have been issued to the 5th respondent prior to that. For greater detail petitioner may refer to the order of this Court in W.P.No.4713 of 2019, more so because in both the cases, the respective petitioners are represented by the same counsel.

7. This Court does not consider that this writ petition is sustainable on two grounds: (a) latches in approaching the Court; and (b) it seemingly involve complex question of law and

fact which cannot be conveniently considered in a writ petition. If the petitioner feels aggrieved he ought to approach only the civil court for remedy.

8. In conclusion this petition is dismissed. No costs.

9. It may be added here that even while this petition is being dismissed, the petitioner is informed that since this Court proposes to narrate various litigations which the petitioner now refers to in the order in W.P.No.4713 of 2019, this Court would release the order only along with the order in that case. This is intended to avoid duplicating the effort in narrating the facts and their legal effect separately.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Sub Court, Chengalpattu.

2.The District Collector
Chengalpattu District.

3.The District Revenue Officer
Chengalpattu District.

4.The Revenue Divisional Officer
Chengalpattu Region.

5.The Tahsildar
Thiruporur Taluk
Chengalpattu District.

+5cc to Mr.K.Aswin Devi, Advocate, S.R.No. 21617
+1cc to the Government Pleader, S.R.No. 21409

W.P.No.6788 of 2021

PCH(CO)
GN(05/08/2021)