



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.5334 of 2019

P.Madheswaran

...Petitioner

Versus

1. The Revenue Divisional Officer,
Thiruchencode,
Namakkal District.

2. The Tahsildar,
Thiruchencode.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records in proceedings Mu.Mu.4205/2018/U dated 07.02.2019 on the file of the 1st respondent and to quash the same as illegal, unconstitutional, grossly perverse and without authority of law and further to direct the respondents to issue patta in respect to the property in S.No.159/1A3 Thokkavadi Village, Thiruchengode Taluk, Namakkal, exclusively in the name of the petitioner.

For Petitioner : Mr.V.Raghavachari
For Respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order in Mu.Mu.4205/2018/U, dated 07.02.2019 passed by the first respondent/Revenue Divisional Officer and for consequential direction to the respondents to issue Patta in respect to the property in S.No.159/1A3 Thokkavadi Village, Thiruchengode Taluk, Namakkal, exclusively in the name of the petitioner.



2.The aforesaid property was purchased by the petitioner's father on 11.02.1985. Subsequently, his father died intestate on 10.08.2017 leaving behind his wife P.Pavalayee and two daughters namely P.Shantha and P.Rani. After the demise of his father, the parties have divided the property by way of a registered Partition Deed in Document Nos.6021 and 6024 of 2017, dated 29.12.2017 on the file of Sub Registrar Office, Tiruchencode. Thereafter, the petitioner had applied for transfer of patta in his favour after removing the names of some third parties namely Mr.Natarajan and Mr.Susikannama, who have no interest in the petitioner's property. While so, the third party names have been wrongly entered at the time of introducing of computerized Patta. In the circumstances, the petitioner gave a representation dated 06.04.2018 to the respondents which was enquired into by the Village Officials as well as the second respondent and it was found that the petitioner is the only sole owner of the property and notices were sent to the above mentioned persons and there are no such persons available in the aforesaid Village. Therefore, the petitioner had produced all the Revenue Records before the respondents to show that the land belongs to him. Though the second respondent/Tahsildar, who had enquired into the matter in his proceedings Mu.Mu.5748 of 2018/A2 has affirmed the petitioner's rights and recommended to the first respondent to delete the names of the third parties in the Patta. This report should have enabled the first respondent to exercise his correctional powers over the Revenue Records and remove the confusion.

3. It is the further case of the petitioner is that this officer appears to pass an order far beyond his station and the scope of enquiry stating that acquisition proceedings are pending and it being a subject matter of challenge before this Court in W.P.No.21889 of 2018 and consequently, the petitioner's application cannot be considered at present. However, the third party names have not been removed and leads to unwanted trouble for the petitioner and the inclusion of their names itself is fraudulent. Hence, the first respondent/Revenue Divisional Officer directed the petitioner herein to withdraw the said W.P.No.21889 of 2018, when the petitioner asked the officer regarding the relevancy of the Patta proceedings with that of the acquisition proceedings, without a word, he charged him to move out. Due to the act of first respondent, the petitioner is made to run from pillar to post. Hence, the petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence this petition.



4. The learned Government Advocate appearing for the respondents submitted that the writ petition has been filed by the petitioner to remove the strangers name in the Patta. On enquiry revealed that, there are no such persons namely Natarajan and Susikannamma living at Thakkavadi Village, Tiruchenkode Taluk, enquiry was conducted by the Village Administrative Officer and also there was some disputes on the petitioner's land in Survey No.159/1A3 regarding land acquisition proceedings, hence, he prays for dismissal of this writ petition.

5. Heard both side and perused the records.

6. On perusal of the typed set of papers and counter affidavit filed by the second respondent, it is seen that there are no such persons namely Natarajan, Son of Arumugam and Susikannama, W/o.Srinivasan available in the village and in the Encumbrance Certificate. On enquiry revealed that, it was found that they have no right over the said property, enquiry was conducted by the Village Officials. However, the Tahsildar/Second Respondent directed the first respondent to remove the names of the said third parties. In this regard, a report was sent by the Tahsildar in K.Dis.5748/2018/A2, dated 05.09.2018 to the first respondent/RDO and the RDO passed an order in K.Dis.4205/2018, dated 07.02.2019 informed to the petitioner that as per the report of the Thokkavadi Village Administrative Officer, the land in question is covered under the land acquisition proceedings and pending for adjudication. While that being the case, the petitioner has also to proceed further in respect of land acquisition proceedings and compensation amount has to be fixed. In that case, the petitioner is directed to produce all the Revenue Records before the respondents/Competent Authorities to proceed further. Hence, the petitioner has not produced any Revenue Records to prove the owner of the aforesaid property.

7. Considering the facts and circumstances of the case, and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, the petitioner is directed to produce all the Revenue Records before the respondents to prove the owner of the aforesaid property. After receiving the records, the respondents are hereby directed to scrutinize all the Revenue Records and conduct thorough enquiry regarding the land acquisition, if any, and thereafter, pass appropriate orders, on merits and in accordance with law, after issuing



notice to the petitioner and necessary parties concerned within a period of eight weeks from the date of receipt of a copy of this order. No costs.

WEB COPY

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

gba/msm
To

1. The Revenue Divisional Officer,
Thiruchencode,
Namakkal District.
2. The Tahsildar,
Thiruchencode.

+1 CC to Mr.V.Raghavachari, Advocate sr 52216
+1 CC to The Government Pleader sr 52768

W.P.No.5334 of 2019

GSM(CO)
SP(16/12/2021)