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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.30490 of 2015
and M.P.Nos. 1 & 2 of 2015

N.Parasuraman

... Petitioner

-Vs-

1. The Special Commissioner,
Land Administration Department,
Chepauk, Chennai-5.
2. The District Collector,
Cuddalore District, Cuddalore.
3. The District Revenue Officer,
Cuddalore District, Cuddalore.
4. The Sub-Collector,
Chidambaram,
Cuddalore District.
5. The Assistant Director,
Land Survey Department,
Cuddalore District, Cuddalore.
6. The Tahsildar,
Chidambaram Taluk,
Cuddalore District.
7. The Zonal Deputy Tahsildar,
Chidambaram,
Cuddalore District.
8. The Revenue Inspector,
Thiruvakkulam,
Chidambaram Taluk,
Cuddalore District.
9. Village Administrative Officer,
Perambattu,
Keelkundalapadi Village,
Perambattu Post,
Chidambaram Taluk,
Cuddalore District

... Respondents



Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the records of the first respondent in Na.Ka.No.G1/4984/2013 dated 30.03.2015 and quash the same and further direct the respondents to re-classify the lands and to issue Patta in favour of the petitioner in respect of the land ad-measuring Acres 2.50 in Old Survey Nos.118,140,142,166 and 168 (presently classified as river poramboke in R.S.No.84/1) Keelkundalapadi Village, Chidambaram Taluk, Cuddalore District.

For Petitioner : Mr.E.Om Prakash, Senior Counsel
for Mr.A.Ilangovan
For Respondents : Mr.M.R.Gokul Krishnan
Government Advocate.

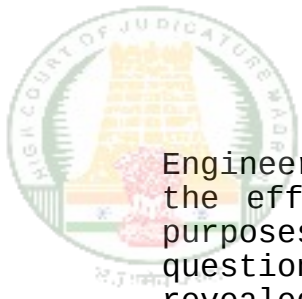
ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified mandamus calling for the records of the first respondent in Na.Ka.No.G1/4984/2013 dated 30.03.2015 and quash the same and further direct the respondents to re-classify the lands and to issue Patta in favour of the petitioner in respect of the land ad-measuring Acres 2.50 in Old Survey Nos.118,140,142,166 and 168 (presently classified as river poramboke in R.S.No.84/1) Keelkundalapadi Village, Chidambaram Taluk, Cuddalore District.

2. Heard Mr.E.Om Prakash, learned Senior Counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that the land comprised in Survey Nos. 118, 140, 142, 161, 166 and 168 were owned by the petitioner's forefathers and they were also issued patta in Patta No.35. The petitioner's forefathers were in possession and enjoyment of the same and they were cultivating the same. In the re-survey of re-settlement conducted during the year 1924, the said lands comprised in Survey Nos. 161 and 165 were wrongly classified as river poramboke and was declared as Government lands in Survey No.84/1. During the lifetime of the petitioner's grandfather and his brother they made representation to the Government since 1961 stating that those lands were wrongly classified as river poramboke and requested to reclassify the said land and issue patta.

4. In fact, the Revenue Divisional Officer, Cuddalore vide proceedings No.K.Din.20546/61 dated 21.07.1961 wrongly treated his forefathers as encroachers and confirmed the order of penalty levied upon them. However, the petitioner's grandfather was directed to approach the Superintending



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Engineer, Public Works Department in getting the certificate to the effect that the site will not be required for conservancy purposes and then applied for the assignment of the land in question. In the report filed by the Executive Engineer revealed that the existence of 15.52 acres were under the ownership of the petitioner's grandfather and favour necessary action for transferring the said land to him. Once again, the petitioner's grandfather approached the Revenue Divisional Officer, Chidambaram for issuance of patta and on the receipt of the same the Revenue Divisional Officer directed the concerned Tahsildar to take appropriate action.

5. Thereafter, the petitioner's father approached the authorities concerned and in turn the third respondent by a communication dated 22.08.1997 directed the Deputy Commissioner, Land Survey Records Department, Cuddalore and Tahsildar to conduct field inspection to consider the representation made by the petitioner's father. Accordingly, on 23.10.1997, a joint field inspection was conducted and they sent a report stating that the records related to old survey numbers are not available and requested to arrange the copies from the Office of the Central Land Survey Records Department, Chepauk, Chennai by communication dated 06.05.1998.

6. Again, the petitioner approached the first respondent for grant of copies of the SLR so that the same can be furnished to the revenue authorities to correct the patta. The first respondent directed the petitioner to approach the second respondent with documentary evidence to prove that he is entitled for the subject land. Again it was informed that they have no records. Therefore, the petitioner was constrained to approach this Court in W.P.No.32944 of 2006. This Court considered the petitioner's request and pass order on 23.01.2013, thereby directed the petitioner to submit fresh representation to the Tahsildar, Chidambaram and the sixth respondent is directed to pass appropriate orders after giving an opportunity of hearing to the petitioner, within a period of ten weeks.

7. Accordingly, the petitioner made a detailed representation on 01.03.2013. On receipt of the same, the sixth respondent called for report from the Revenue Inspector and the Deputy Tahsildar after making the field inspection. Accordingly, they sent a report dated 27.03.2013, thereby recommended the case of the petitioner for reclassification of land and for issuance of patta. The said reports were sent to the Sub-Collector, Chidambaram and recommended for issuance of patta. In this regard, the sixth respondent also sought for clarification and issued necessary orders to the third respondent by communication dated 27.03.2013. The second respondent raised two queries to consider the representation of



the petitioner as directed by this court as follows.

(i) The Tahsildar did not mention the value of the land which is sought to be classified.

(ii) The subject land is in possession and enjoyment of the petitioner and his predecessors for the past 19 years, in which the petitioner is in possession and enjoyment for the period of 5 years.

8. There is no information in the recommendation forwarded by the Tahsildar about the request of issuance of patta for the similarly placed possession. On receipt of the same, the sixth respondent by his communication dated 26.07.2013 fixed the value for the subject land as Rs.2,40,000/- per acre and for the total extent of land ad-measuring 1.05.75 sq.mt. to the value of Rs.6,27,626/-. It is further revealed that the subject land is in possession and enjoyment of the petitioner and his predecessors for the past 85 years. On receipt of the said reports, the third respondent herein by communication dated 07.12.2013 sent a report to the first respondent herein that the subject land value was fixed as Rs.6,27,626/- to an extent of 1.05.75 hectares and as such, for reclassification of the said land as per the pecuniary jurisdiction, the first respondent has got power.

9. The petitioner made representation and also issued legal contempt notice to the first respondent for non-compliance of the order passed by this Court dated 23.01.2013. On receipt of the same, the first respondent by an order impugned in the writ petition rejected the petitioner's request for the reason that the subject land classified as river poramboke and as such, reclassification is not possible and also directed the authorities concerned to take immediate steps to get back the land in favour of the Government.

10. On perusal of the impugned order, the above said reports were not referred by the first respondent and also no enquiry was conducted by the first respondent before passing the impugned order. This Court specifically directed that the petitioner should be granted opportunity of hearing and conduct enquiry and pass orders. Though the direction was issued to the sixth respondent, considering the value of the land and classification of land, it was referred before the first respondent to pass order. Therefore, the first respondent ought to have follow the Principles of natural Justice before passing an impugned order.

11. On perusal of the counter also reveals that no piece of evidence produced before this Court to show that the first respondent conducted enquiry that too after giving opportunity of hearing to the petitioner herein. Therefore it is clear violation of Principles of Natural Justice and the



impugned order cannot be sustained as against the petitioner.

12. In view of the above, the impugned order passed by the first respondent in Na.Ka.No.G1/4984/2013, dated 30.03.2015 is hereby set aside. The matter is remanded back to the first respondent for fresh consideration. It is made clear that the first respondent is directed to consider all the above said recommendations made by the other revenue officials and after giving opportunity of hearing to the petitioner and pass orders on merits and in accordance with law within a period of 12 weeks thereafter.

13. In the result, this Writ Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

Lpp/mn

To

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Chepauk, Chennai-5.
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Perambattu Post,
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Cuddalore District.

+2CCs to M/s.A.Ilangovan, Advocate, SR.No. 46285
+1CC to The Government Pleader, SR.No. 46869

W.P.No.30490 of 2015
and W.M.P.No. 1 & 2 of 2015

MG(CO)
B.VC (01/10/2021)