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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.29950 OF 2013

AND

M.P.NO.1 OF 2013

R.Vaithiyanathan

... Petitioner

Vs

1. The District Collector,
Villupuram Taluk & District.
2. The Thasildhar,
Tirukoilur Taluk,
Villupuram District.
3. The Revenue Divisional Officer,
Tirukoilur Taluk,
Villupuram District.
4. The Revenue Inspector,
Mugaiyur Village,
Tirukoilur Taluk,
Villupuram District.
5. The Village Administrative Officer,
Alambadi Village,
Tirukoilur Taluk.
6. V.Srinivasan

... 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 of the second respondent in



respect of his order passed in N.a.Aa3/9979/2011 dated 01.10.2013 and quash the same as illegal and thereby directing the second respondent to pass fresh appropriate orders after hearing the petitioner as well as the fifth respondent.

For Petitioner : Mr.S.Srinath

For Respondents : Mr.M.R.Gokul Krishnan,
1 to 5 Government Advocate

For Respondent 6 : Mr.N.Suresh

O R D E R

This writ petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in respect of his order passed in N.a.Aa3/9979/2011 dated 01.10.2013 and quash the same as illegal and thereby directing the second respondent to pass fresh appropriate orders after hearing the petitioner as well as the fifth respondent.

2. The case of the petitioner is that the property comprised in R.S.No.190/16 (old Natham S.No.57/15 part) admeasuring 178 sq.mts. originally belonged to Ramasamy Iyer who is none other than the grandfather of the petitioner. By the Will dated 27.09.1967, the petitioner's grandfather bequeathed the said property in favour of the sixth respondent herein and created life interest in favour of the petitioner's family.

3. By virtue of continuous and absolute possession and enjoyment of the said property, the petitioner was granted patta No.521 in the year 1997. Since the sixth respondent interfered with the possession and enjoyment of the said property, the petitioner filed a suit for declaration of title and permanent injunction in O.S.No.147 of 2001, which was dismissed by the Judgment and Decree dated 14.08.2003 on the file of the Additional District Munsif, Tirukoilur. Aggrieved by the same, the petitioner also preferred appeal suit in A.S.No.250 of 2003 and the same was also dismissed on 25.07.2005 on the file of II Additional Sub Court, Villupuram.



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4. However, the petitioner did not prefer any second appeal before this Court, though it is stated that the petitioner filed second appeal in S.A.SR.No.42775 of 2006 dated 27.04.2006. In the meanwhile, the sixth respondent filed writ petition for issuance of patta in W.P.No.18222 of 2011 before this Court and this Court by an order dated 20.10.2011 directed the second respondent to pass appropriate orders within three months. Accordingly, the second respondent conducted enquiry after issuing notice to the parties concerned and pass the order impugned in this writ petition. A perusal of the order impugned in this writ petition revealed that the petitioner was duly issued with notice and the said notice was refused to be received by the petitioner on 21.09.2013.

5. However, the learned counsel for the petitioner would submit that without serving any notice as directed by this Court, the second respondent conducted enquiry and passed the impugned order. In fact, the petitioner caused legal notice on 26.09.2013 to the second respondent, calling upon not to pass any order without hearing him.

6. Whereas the learned counsel for the sixth respondent filed counter and submitted that the second respondent duly conducted enquiry after serving notice to the petitioner as well as the sixth respondent. In fact, the petitioner refused to receive the notice. That apart, the petitioner filed a suit for declaration and injunction in the very same property and he failed before the Court below and did not prefer any second appeal, aggrieved by the Judgment and Decree passed in the suit as well as the appeal suit.

7. That apart, the sixth respondent lodged complaint as against the petitioner for his interference over the suit property by cutting the tree. However, the SF 10 register shows that the sixth respondent is in possession and enjoyment of the subject property. Therefore, this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and liable to be dismissed.

8. However, if the petitioner succeeded in the second appeal as against the Judgment and Decree passed in A.S.No.250 of 2003, the petitioner is at liberty to approach the second respondent for issuance of patta in the manner known to law.



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9. Accordingly, this writ petition is dismissed. No order as to costs. Consequently, the connected M.P.No.1 of 2013 is dismissed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

rna

To

1. The District Collector,
Villupuram Taluk & District.
2. The Thasildhar,
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Villupuram District.
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4. The Revenue Inspector,
Mugaiyur Village,
Tirukoilur Taluk,
Villupuram District.
5. The Village Administrative Officer,
Alambadi Village,
Tirukoilur Taluk.

+1cc to Mr.N.Suresh, Advocate, S.R.No.54906

W.P.No.29950 of 2013
and M.P.No.1 of 2013

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