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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.35027 of 2012 and
MP.No.1 of 2012

Muniammal

... Petitioner

Vs

- 1.The District Collector,
Collector Office,
Salem District
- 2.The District Revenue Officer,
Collector Office,
Salem District
- 3.The Revenue Divisional Officer,
RDO Office,
Attur Taluk, Salem District
- 4.The Zonal Deputy Tahsildar,
Attur Taluk Office,
Attur Town, Salem District
- 5.The Revenue Inspector,
Taluk Office Compound,
Attur Town, Salem District
- 6.The Village Administrative Officer,
Village Administrative Office,
Ammampalayam Village,
Attur Taluk,
Salem District

7.Madheswaran

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the fourth respondent in reference 6 (II) 3456/2012 A3 dated 05.12.2012, quash the same and consequently direct the fourth respondent to restore the name of the petitioner in Patta No.1984, corresponding to lands in Survey No.161/2, measuring 0.59.5 hectares (1.47 acres) of Ammampalayam Village, Attur Taluk, Salem District.



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For Petitioner : Mr.T.S.Vijaya Raghavan
For Respondents :
For R1 to 6 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R7 : No appearance

ORDER

This Writ Petition is filed to issue a writ of certiorarified mandamus to call for the records of the fourth respondent in reference 6 (II) 3456/2012 A3 dated 05.12.2012, quash the same and consequently direct the fourth respondent to restore the name of the petitioner in Patta No.1984, corresponding to lands in Survey No.161/2, measuring 0.59.5 hectares (1.47 acres) of Ammampalayam Village, Attur Taluk, Salem District.

2. The learned counsel for the seventh respondent reported no instruction from the seventh respondent.

3. The case of the petitioner is that the property comprised in survey no.161/2 admeasuring 1.47 acres originally belonged to one Karuppan and his brother Angamuthu. The said property fell to the share of Angamuthu in a partition and he sold out to one, Vaiyapuri in the year 1935. In turn, the petitioner purchased from the said Vaiyapuri for valuable sale consideration by unregistered sale deed dated 27.01.1983. After due enquiry, the petitioner was issued patta for the said land. The petitioner is in exclusive possession and enjoyment of the said property. However, the seventh respondent herein filed suit in OS.No.50 of 2012 on the file of the District Munsif Court, Athur as against the petitioner and others for declaration in respect of the land and also for mandatory injunction to restore the name of the original pattadar i.e. Angamuthu in patta No.5 on the pretext that the same has been tampered and altered. He also filed application wherein interim injunction was granted and subsequently it was dismissed by order dated 29.06.2012. However, while pending the suit, on 19.06.2012 the seventh respondent herein made application to the fourth respondent stating that the name of the pattadar has been wrongly entered with regard to the subject property and for restoring the name of the said Angamuthu, dead person. In the said petition, the petitioner was summoned for enquiry on 29.06.2012 and the petitioner also attended enquiry and offered explanation about his purchase and the pendency of the suit. However, without hearing the petitioner, the fourth respondent mechanically



passed the impugned order dated 05.12.2012 thereby cancelled the patta No.1984 and restoration of patta No.5 in the name of the dead person i.e. Angamuthu.

4. In the counter filed by the fourth respondent, revealed that the petitioner's name was found in the taluk computer inadvertently. If the seventh respondent succeeds in OS.No.50 of 2012 pending on the file of the District Munsif Court, Athur, then necessary changes will be effected as per the judgment under Section 10 (3) (a) (i) of the Patta Passbook Act. Therefore, there is no evidence to show that the petitioner was called for enquiry and attended enquiry.

5. On perusal of the impugned order also, did not refer to any enquiry conducted with the petitioner herein. Thus, it is clear that the impugned order passed without conducting any enquiry and it violates the principles of natural justice. On this ground alone, the impugned order cannot be sustained as against the petitioner and liable to be set aside.

6. In view of the above, the impugned order dated 05.12.2012 is set aside and the writ petition is allowed. The matter is remanded back to the fourth respondent for passing fresh orders. It is made clear that the seventh respondent already filed suit in OS.No.50 of 2012 on the file of the District Munsif Court, Athur for declaration and injunction in respect of the very same subject property. Therefore, the fourth respondent is directed to pass orders subject to the result of the suit in OS.No.50 of 2012 on the file of the District Munsif Court, Athur filed by the seventh respondent herein after issuance of notice to the parties concerned and after giving opportunity of hearing, on merits and in accordance with law. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Collector Office,
Salem District.



2.The District Revenue Officer,
Collector Office,
Salem District.

3.The Revenue Divisional Officer,
RDO Office,
Attur Taluk, Salem District.

4.The Zonal Deputy Tahsildar,
Attur Taluk Office,
Attur Town, Salem District.

5.The Revenue Inspector,
Taluk Office Compound,
Attur Town, Salem District.

6.The Village Administrative Officer,
Village Administrative Office,
Ammampalayam Village,
Attur Taluk,
Salem District.

7.The District Munsif Court,
Athur.

+1cc to Mr.M.R.Vivekananthan, Advocate Sr.51225
+1cc to the Government Pleader Sr.51962

WP.No.35027 of 2012

pm[co]
srg 09/11/2021