



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3239 of 2015

and

M.P.Nos.2 and 3 of 2015

S.Krishnamurthy

...Petitioner

-Vs-

1. The Tahsildar
Udayarpalayam Taluk
Jayangondam
Ariyalur District.

2. Arangarajan (Deceased)

3. A.Karikalan

(R3-Substituted as LR's of
Deceased R2 Arangarajan,
as per order dated 20.07.2018
in WMP.21908/18 in W.P.No.3239/15)

...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 relating to the Patta No.1332 issued by the first respondent in favour of the second respondent and quash the same and consequently direct the first respondent to restore Patta bearing No.61 issued in favour of the petitioner in respect of the land measuring Ac.01-10 cents comprised in Survey No.340/14B of Vangudi Village, Udayarpalayam Taluk, Ariyalur District.

For Petitioner : Mr. A.V.Raja

For R1 : Mr. M.R.Gokul Krishnan
Government Advocate.

For R2 : Mr. K.Balu

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Patta No.1332 issued by the first respondent in



favour of the second respondent and quash the same and consequently direct the first respondent to restore Patta bearing No.61 issued in favour of the petitioner in respect of the land measuring Ac.01-10 cents comprised in Survey No.340/14B of Vangudi Village, Udayarpalayam Taluk, Ariyalur District.

2.Heard Mr. A.V.Raja, learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the first respondent and Mr.K.Balu, learned counsel appearing for the second respondent.

3.The case of the petitioner is that in pursuant to the purchase of the subject land, the petitioner's father was in physical possession and enjoyment and thereafter the revenue records were also mutated in his favour. He was issued patta in Patta No.61 in the year 1974. During the year 1985, his elder brother applied for Solvency Certificate before the first respondent and in fact the first respondent issued Solvency Certificate in Survey No.340/14 under the immovable properties owned by his brother. On 28.10.1974, his family members partitioned the subject land by way of unregistered partition deed. In pursuant to the same, the petitioner was allotted the subject land and sub-divided as Survey No.340/14B. The petitioner is in possession and enjoyment of the same and in fact he was also issued encumbrance certificate for the purpose of availing agricultural bank loan in respect of the subject property. However, the revenue records also stood in the name of the petitioner's father.

4.While being so, the second respondent applied for patta for the very same subject land in the year 2013 and he was issued patta. He had no title and no documents to prove that he is in possession and enjoyment of the subject property. That apart, the first respondent without even issuing any notice, without even conducting any enquiry, mechanically changed the patta in favour of the second respondent and was issued patta in Patta No.1332.

5.A perusal of the counter filed by the first respondent revealed that the second respondent had purchased the subject property for valid sale consideration of Rs.11,000/- (Rupees Eleven Thousand only) from the petitioner's father as early as on 1983 under the local custom and practice. The second respondent did not receive any receipt for the partition by the petitioner's father. In pursuant to the physical possession and peaceful enjoyment, the second respondent was issued patta. Admittedly, the petitioner was never served any notice and no enquiry was conducted by the first respondent before issuance of patta in favour of the second respondent.



6. On the sole ground alone, the impugned order cannot be sustained as against the petitioner and is liable to be set aside. Accordingly, the Patta No.1332, issued by the first respondent in favour of the second respondent is hereby set aside.

7. It is remanded back to the first respondent for fresh disposal. The first respondent is directed to issue notice to the petitioner as well as the second respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the petitioner and the second respondent are at liberty to produce all the documents to substantiate their respective claim, after giving them an opportunity of hearing, pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

8. With the above direction, this writ petition stands allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mn/sha

To

The Tahsildar,
Udayarpalayam Taluk,
Jayangondam ,
Ariyalur District.

+1cc to Mr.K.Balu, Advocate, S.R.No.57027

+1cc to the Government Pleader, S.R.No.57639

W.P.No.3239 of 2015
and M.P.Nos.2 and 3 of 2015

PA(CO)
RGA(26/11/2021)