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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 12.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.690 of 2015
and M.P.No.1 of 2015

K.Venkatesan

...Petitioner

-Vs-

1.The District Collector
Collectorate, Sathuvachari
Vellore.

2.The Thasildar
Arakkonam Taluk
Arakkonam
Vellore District.

3.The Village Administrative Officer
Easalapuram Village, Arakkonam Taluk
Vellore District.

4.Subramaniya Chettiar

5.M.Babu

6.V.Vinayagam

7.Ganesan

8.Ambiga

9.B.Radhakrishnan

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to consider petitioners representation dated 28.11.2014 and further direct the 2nd respondent to cancel the Patta Nos.96 and 1677 which stands in the name of respondents 5, 6, 8, and 9 respectively to the properties situated in Dry.S.F.Nos.166/2A, 2B and 2C, total extent of 4.20 Acres in this to an extent of 3.03 bounded by Sanjeeviammalls land on the east, Rajendira Naidu's land on the west, Muniyandi's land on the South and Munusami Accharis land on the north and well therein a 5 H.P Electric Motor and Pump set bearing S.C.No.911 in Itchiputtur Village Account Arakkonam Taluk, Vellore District and to give separate patta in the name of petitioner.



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For Petitioner : Mr.A.Gowthaman
For Respondents : Ms.Akila Rajendran
Govt.Counsel for RR 1 to 3
Mr.Manoj for Mr.G.Jeremiah for R4
No appearance - for R9

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the 2nd respondent to consider the petitioner's representation dated 28.11.2014 and further direct the 2nd respondent to cancel the Patta Nos.96 and 1677 which stands in the name of respondents 5,6,8 and 9 respectively to the properties situated in Dry.S.F.Nos.166/2A 2B and 2C total extent of 4.20 Acres in this to an extent of 3.03 bounded by Sanjeeviammalls land on the east Rajendira Naidus land on the west Muniyandis land on the South and Munusami Accharis land on the north and well therein a 5 H.P Electric Motor and Pump set bearing S.C.No.911 in Itchiputtur Village Account, Arakkonam Taluk, Vellore District and to give separate patta in the name of petitioner.

2. Insofar as the property situated in S.F.No.166/2 to the extent of 3.03 Acres with 5 HP Electric Motor and Well with Service Connection No.911 is concerned, the petitioner, in order to execute the sale agreement with some of the private respondents herein, filed a suit in O.S.No.15 of 2006 on the file of the District Munsif Court, Sholinghur. After contest, the suit was decreed on 20.12.2011, whereby specific performance decree was passed by the learned Judge, pursuant to which execution petition in E.P.No.43 of 2012 was filed by the petitioner and in order to execute the decree, a sale deed has been executed by the Court ie., District Munsif Court, Sholinghur in respect of the subject property in favour of the petitioner on 16.04.2013 and the same was registered in the concerned Registrar Office, ie., Joint Registrar, Arakkonam as Document No.3268 of 2013. Thereby, the petitioner has claimed to be the absolute owner of the property in question.

3. However, in this context, it is the further case of the petitioner that, during the pendency of the suit, some third party right has been created in favour of the respondents 6 and 9, knowing well that the suit for specific performance has already been filed and is pending and based on some sale deed executed in favour of respondents 5 and 9, patta in respect of the subject land has been changed in favour of the respondents 6 and 9. Therefore, in order to cancel the patta stood in the name of respondents 6 and 9 and to issue the patta in the name of the petitioner, the petitioner has given a representation to



the second respondent Tahsildar on 28.11.2014 and since the said representation has not been considered so far, till the filing of the writ petition, the petitioner has filed the present writ petition with the aforesaid prayer.

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4. Reiterating the aforesaid facts, Mr.A.Gowthaman, learned counsel for the petitioner seeks the indulgence of this Court to issue a direction by way of a Mandamus to the respondents.

5. Heard Mr.Manoj, learned counsel appearing for the fourth respondent. Though he wants some time to get further instructions from the fourth respondent, this Court, after having gone through the aforesaid facts and after hearing the learned counsel appearing for the petitioner as well as the learned Government Counsel appearing for the respondents and in view of the order that is going to be passed, feels that, no new issue can be brought in, in view of the aforesaid clinching factors, where the suit for specific performance has been decreed in favour of the petitioner, pursuant to which the sale deed in respect of the property in question has been executed by the Court.

6. I have also heard Ms.Akila Rajendran, learned Government Counsel appearing for the official respondents, who would submit that, with the aforesaid facts, if any representation has been submitted by the petitioner to the second respondent Tahsildar as claimed by him on 28.11.2014 and the same, if has not been considered so far, certainly it would be considered and orders to that effect would be passed, of course after hearing the petitioner as well as the private respondents, by giving an opportunity of being heard, on merits and in accordance with law within a time frame that may be stipulated by this Court.

7. I have considered the submissions made by the learned counsel for either side and also have gone through the materials placed on record.

8. As has been rightly pointed out by the learned counsel for the petitioner, insofar as the property in question, suit has been decreed for specific performance in the year 2011, followed by which, sale deed has been executed by the Court on 16.04.2013 to and in favour of the petitioner. When that being so, if any claim is made by the private respondents either as original owners or as subsequent purchasers, those claims may not stand in the way of the petitioner as claimed in his representation dated 28.11.2014 for issuance of patta in his favour, and the issue shall be decided by the second respondent Tahsildar, who is the competent authority under the provisions of the Patta Passbook Act only after hearing the petitioner as well as the private respondents.



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9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the second respondent Tahsildar to consider the representation of the petitioner dated 28.11.2014 and pass orders with regard to the plea raised therein by the petitioner for issuance of patta, of course after hearing both the petitioner as well as the private respondents by giving separate notices.
- The needful as indicated above shall be undertaken by the second respondent Tahsildar within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KST

To

1. The District Collector ,Collectorate,
Sathuvachari,Vellore.
2. The Thasildar,Arakkonam Taluk,
Arakkonam, Vellore District.
3. The Village Administrative Officer,
Easalapuram Village,
Arakkonam Taluk, Vellore District.

+1cc to Mr.A.Gowthaman,Advocate,Sr.32515
+1cc to Government Pleader,Sr.33294

W.P.No.690 of 2015

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NSK 03/08/2021