



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.20266 of 2021
and
W.M.P. No.21525 of 2021

V.Ramakumar,

... Petitioner

-Vs-

1.The District Collector,
Villupuram,
Villupuram District.

2.The Revenue Divisional Officer,
Villupuram,
Villupuram District.

3.The Tashildar,
Samangalam, Vanur Taluk,
Villupuram District.

4.The Dharmakarthi,
Arulmigu Varnamuthu Mariyamman Temple,
Sethanapattu, Vanur Taluk,
Villupuram District.

...Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing Respondents 1 and 2 to forthwith complete the enquiry in Na.Ka.A.3/1409/2014 dated 12-08-2014 that had commenced on 20-08-2014 on the representation dated 11-08-2014.

For Petitioner :: Mr.S. Kingston Jerold

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is for a direction to the directing Respondents 1 and 2 to forthwith complete the enquiry in Na.Ka.A.3/1409/2014 dated 12-08-2014 that had commenced on 20-08-2014 on the representation dated 11-08-2014 and to pass final orders thereon accordingly.



2. The learned counsel for the petitioner would submit that the petitioner's father, late Venkata Krishna Reddiyar, purchased a property within specific boundaries lying in Survey Number 148/3-0.23.5, old survey No: 149/3-0.45 cents situate in within Parangani Panchayat, Vanur Sub Division, Villupuram District under a registered Sale Deed dated 06-09-1973 bearing document No.2274/1973 from Ramasamy gounder. The aforesaid property formed part of a larger extent possessed and owned by Ramasamy Gounder. The said Ramasamy Gounder to his urgent family needs sold the property to the petitioner's father. Pursuant to the purchase of the aforesaid property, the petitioner's father are in absolute possession and enjoyment of the same along with his family. After the demise of the petitioner's father, the aforesaid property devolved upon the petitioner and his two brothers namely Sridhar, and Balaji, and his 2 sisters namely Mrs.Usha, W/o Ravichandran and Mrs. Varalakshmil, W/o.N.Ramalingam as per the Legal Heir Certificate came to be issued by the Tehsildar, Vanuar, Villupuram District on 03-12-2012 since the petitioner's mother predeceased his father.

3. It has been further submitted that the petitioner has applied for an Encumbrance Certificate in respect of Plot No. 1 in Survey Number 1401/34 A2 for the period from 01.01.1924 to 31.12.1986 and the said Encumbrance only recorded the purchase of the property by the petitionoer's father on 06-09-1973. Thereafter, the petitioner also applied for an Encumbrance Certificate for the period from 01.01.1987 to 05.09.2012 for the aforesaid Plot and the Encumbrance Certificate as issued stated that there was no Encumbrance in respect of the Property that had been purchased by the petitioner's father. While matter stood thus, the petitioner was given to understand sometime subsequent to the purchase that the Patta which stood in the petitioner's father name, had been mutated in the name of the Fourth Respondent. The Fourth Respondent is an utter stranger and has nothing to do with the petitioner's father. Since Patta had been wrongly mutated in the name of the Fourth Respondent, the petitioner has made a Representation in the year 2001 to the 3rd respondent requesting the restoration of the petitioner's father name in the Patta in respect of property purchased in the year 1973 by him and subsequently the petitioner has been making representations to the 3rd respondent continuesly. In the said Representations, the petitioner has pointed out that the petitioner's father had not sold the property in question to anybody during his lifetime or gifted the property to any one and the said factum was evident from the Encumbrance Certificates produced and that therefore the mutation of the Patta in the name of the Fourth Respondent



had to be cancelled and the Patta for the property in question had to be issued in the joint names of all the legal Heirs namely the three sons of late S.P.Venkatakrishnan including the petitioner herein. In this regard, the 3rd Respondent called upon the petitioner vide Notice dated Na.ka.No.A3/1409/2014 dated 12-08-2014, to appear for an enquiry to be held on 20-08-2014 at 04.00 P.M. and to bring all the original documents. On the appointed date and time, the petitioner appeared in the Office of the 3rd Respondent to participate and place the original documents. Even though the 4th Respondent had also been issued with the Notice of Enquiry, the 4th Respondent did not appear during the day of enquiry. After waiting for some time for the 4th Respondent and as he did not turn up, the petitioner's statement was recorded during the day of enquiry and original documents were duly verified with the Xerox copies of the documents submitted by him wherein the petitioner was informed by the Second Respondent that fresh Notice of Enquiry would be issued to the Fourth Respondent and that the petitioner need not present again in that enquiry and that after completion of enquiry, appropriate orders would be passed and the same would be communicated to the petitioner herein. Thereafter, the petitioner did not receive any communication or orders from either of Respondents 1 to 3.

4. It has been further submitted that even though lot of visitation during the years 2015 to 2021 to the Office of the 3rd Respondent, it did not bear any fruits. Further in the visitation of the petitioner in the aforesaid years, the 2nd Respondent was not available on number of occasions since the 2nd Respondent who had commenced the enquiry had been transferred and or promoted and another incumbent had taken charge. In as much as the 1st Respondent had directed the 2nd Respondent to take appropriate action, the 2nd Respondent also having initiated the action by holding an enquiry on 20-08-2014, the Second Respondent was duty bound to take the appropriate action on the Representation dated 11.08.2014 and communicate the order on the same as had been directed by the 1st Respondent herein.

5.The learned counsel for the petitioner would further submit that during the year 2020, the petitioner could not personally go to the office of the 2nd Respondent due to the Pandemic situation. Since no action had been taken by either by the 1st or 2nd Respondent, a Legal Notice dated 20-07.2021 was issued on behalf of the petitioner and his brothers to the 1st Respondent calling upon to the 1st Respondent to direct issuance of Patta in the joint names as requested by the



petitioner and his brothers. The 1st Respondent had neither complied with the demand in the Notice dated 20.07.2021 nor sent any reply so far. Hence, the petitioner is left with no other option except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India to issue Writ of Mandamus directing Respondents 1 and 2 to forthwith complete the enquiry that had commenced on 20-08-2014 on the Representation dated 11-08 2014 and pass final Orders thereon.

6. The learned Government Advocate for the respondents would submit that the respondents 1 and 2 may be directed to pass appropriate orders on the enquiry which is said to have been already held by the them within a time frame as fixed by this Court.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, this Court is of the considered view that even after passing seven years after conducting the enquiry which was held on 20.08.2014 wherein 4th respondent did not turn up, there is no order and reply passed by the authorities concerned. Under such circumstance, the petitioner is directed to produce the copy of the representation dated 20.08.2014 before the authorities concerned / respondents herein seeking to know the status of the enquiry within a period of two weeks from the date of receipt of copy of this order. After receipt of the said representation dated 20.08.2014 from the petitioner herein, the respondents 1 & 2 are directed to conduct the enquiry afresh after serving notice to the 4th respondent and affording sufficient opportunity to the parties concerned and pass appropriate orders on the enquiry within a period of six months from the date of receipt of copy of this order.

9. In the result, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar



Lbm

To:

1.The District Collector,
Krishnagiri District.

2.The Revenue Divisional Officer,
O/o,the Revenue Divisional Officer,
Krishnagiri.

3.The Tashildar,
Uthangarai.

+1 CC to Mr.S.Kingston Jerold, Advocate sr 48388

+1 CC to The Government Pleader sr 49509.

W.P. No.20266 of 2021
and

W.M.P. No.21525 of 2021

VBM(CO)
SP(17/12/2021)