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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.17783 of 2021

and

W.M.P.No.18970 of 2021

Dhanalakshmi

... Petitioner

Vs.

1. The District Collector
Namakkal District
Namakkal
2. The Revenue Divisional Officer,
Namakkal
Namakkal District
3. The Tahsildar,
Kollimalai Taluk,
Namakkal District
4. The Deputy Tahsildar,
Kollimalai Taluk,
Namakkal District
5. The Village Administrative Officer,
Selurnaadu Village,
Kollimalai Taluk,
6. Vela Subanathan
7. Malarkodi
8. Chitra

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to issue a patta in respect of the property comprised in Old S.No.21/1 corresponding Resurvey No.222/4



situated at Selurnaadu Village, Kollimalai Taluk, Namakkal District based on the enquiry held on 04.01.2021 in Proceedings Na.Ka.No.6758/2020/A4 by the 2nd respondent forthwith.

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For Petitioner : Mr.C.Prabakaran

For Respondents: : Mr.Yogesh Kannadasan for R1 to R5
Government Advocate

O R D E R

This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to issue a patta in respect of the property comprised in Old S.No.21/1 corresponding Resurvey No.222/4 situated at Selurnaadu Village, Kollimalai Taluk, Namakkal District based on the enquiry held on 04.01.2021 in Proceedings Na.Ka.No.6758/2020/A4 by the 2nd respondent forthwith and to pass further orders.

2. According to the petitioner, the property comprised in Old Survey No.21/1 corresponding Resurvey No.222/4 situated at Selurnaadu village, Kollimalai Taluk, Namakkal District was originally belongs to her5 grand father, viz., Vela.Chinnakuttai Gounder S/o Vellaiaya Gounder, who had purchased the said property from Pachanavada Gounder and Pachanavellaichaami under sale deed vide document no.1158 of 1972 on the file of SRO, Sendamangalam for a valuable sale consideration and followed by which the said property was enjoyed by Vela.Chinnakuttai Gounder along with his family without any hindrance. Thereafter, the said Vela.Chinnakuttai died on 20.05.1992 leaving behind his one and only son Vela.Chinnandi, as a legal heir. Thereafter, Vela.chinnaandi died due to illness on 02.05.1998. Thereafter, the said property devolved on his wife, namely, Rajammal and his daughter and the petitioner. While so, the respondents 6 to 8 were trying to encroach the subject matter property. In order to restrain private respondents from entering and disturbing the enjoyment and possession of aforementioned property, the petitioner had filed suit for permanent injunction in respect of subject matter property along with other properties against private respondents herein in O.S.No.49 of 2020 on the file of District Munsif Court, Namakkal.

3. It is the further case of the petitioner that the 6th respondent has submitted the application seeking issuance of patta in respect of the subject matter of property to the 4th



respondent herein on 16.06.2020. In pursuance of which, 4th respondent mutated the patta in respect of subject matter property in the name of 6th respondent vide Ni.Mu.Paa.Maa.No.31/6II/2019-20 dated 17.06.2020 and there was not even a notice issued to the petitioner regarding such proceedings. Such mutation is not only illegal and unsustainable in law with the arbitrary and high handed act of the revenue authority for their whims and fancies. Based on the mutation, 6th respondent, executed the sale deed in favour of the 8th respondent for the subject matter property without even a single document regarding the title over the property vide document no.1352 of 2020 dated 19.06.2020 on the file of SRO, Sathymangalam. The Sub Registrar also in collusive registered the sale deed without even verifying the encumbrance found in old survey no.21/1, corresponding Resurvey no.222/4 situated at selurnaadu village. Therefore, pleaded that all those documents are created with fraud and are liable to be struck off forthwith, hence this petition.

4. The learned counsel for the petitioner would submit that on 16.09.2020, the respondents 6 to 8 came to the subject matter of property and threatened the petitioner to vacate the property, as if they are the owners of the subject property. Upon knowing the above said mutation, the petitioner made oral representation to 5th respondent requesting to restore the patta, however, there was no fruitful action by the 5th respondent till date. Therefore, the petitioner sent complaint to the Director of Vigilance and Anti-Corruption detailing about the misappropriation and malpractice done by the 4th and 5th respondents and requested to take appropriate action by registering FIR and to restore patta. Based on the said complaint, the 2nd respondent issued a notice of enquiry dated 16.12.2020 in Na.Ka.No.6758 / 2020 /A4 calling upon us to appear for an enquiry and the petitioner appeared in-person and submitted all the documents and requested to issue patta and also requested to take appropriate action, but no orders have been issued. Therefore, the petitioner pleaded that a direction may be issued to the 2nd respondent to issue patta in respect of the property in question.

5. The learned Government Advocate appearing for the respondents 1 to 5 has submitted the proceedings passed by the Revenue Divisional Officer in Na.Ka.No.6758/2020/m4 dated 02.09.2021.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. On earlier occasion, viz., 31.08.2021, this Court had directed the 2nd respondent, viz., Revenue Divisional Officer



concerned, Namakkal to appear before this Court through video conferencing to submit the report of the enquiry. Accordingly, today, Mr.Kottai Kumar, Revenue Divisional Officer, Namakkal is present before this Court through video conferencing. Further, on perusal of the proceedings passed by the Revenue Divisional Officer in Na.Ka.No.6758/2020/m4 dated 02.09.2021, it is found that the authority has given personal hearing to all the parties concerned and recorded their submission and passed order rejecting the claim of the petitioner dated 05.10.2020, citing certain reasons, which this Court is not inclined to deal with.

8. Taking into consideration of the fact that the 2nd respondent / Revenue Divisional Officer, Namakkal by way of proceedings dated 02.09.2021 has rejected the claim of petitioner dated 05.10.2020 and the same can be challenged by way of appeal, this Court is inclined to direct the petitioner to redress his grievance before the appellate authority. That apart, the 2nd respondent is directed to send the copies of the rejection order dated 02.09.2021 to the parties concerned immediately through Registered Post with Acknowledgment Due.

With the aforesaid liberty, the present Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector
Namakkal District
Namakkal
2. The Revenue Divisional Officer,
Namakkal
Namakkal District
3. The Tahsildar,
Kollimalai Taluk,
Namakkal District



4. The Deputy Tahsildar,
Kollimalai Taluk,
Namakkal District

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5. The Village Administrative Officer,
Selurnaadu Village,
Kollimalai Taluk,

+1cc to M/s. C.Prabakaran, Advocate, S.R.No.45026

+1cc to the Government Pleader, S.R.No.45509

W.P.No.17783 of 2021and
W.M.P.No.18970 of 2021

KSM(CO)
SU(24/09/2021)