IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.16653 of 2018 and
W.M.P. No.19864 of 2018

B.Narasimhan .. Petitioner

Vs.

1.The District Collector
Thiruvallur District
Thiruvallur

2.The Sub-Collector
Ponneri, Thiruvallur District

3.The Revenue Divisional Officer
Ponneri Taluk
Thiruvallur District

4.The Tahsildar
Ponneri Taluk
Thiruvallur district

5.V.Anandan

6.Satheesh Kumar

7.G.Anandan

8.Veerasamy

9.Jayaraman

10.Sambada Mudaliar .. Respondents

* * *

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent dated 07.03.2018 in his Order No.Na.Ka.622/2017/A1 and quash the same and to direct the 3rd respondent to cancel the patta issued in favour of the Respondents 5 to 10 and issue patta in favour of the petitioner with respect to Survey number at S.Nos.74/4 measuring 0.73 Cents, 74/5 measuring 2.08 Cents, 87/7 measuring 0.18 Cents, 157/2 measuring 0.76 Cents, 167/4 measuring 0.79 Cents, 167/5 measuring 0.87 Cents, 174/3 measuring 0.14 Cents, 174/5 measuring 1.82 Cents, 174/6 measuring 0.17 Cents, 188/3 measuring 0.64 Cents Aamur Village, Ponneri Taluk, Thiruvallur District and surve No.188/4 measuring 0.80 Cents and 188/5 measuring 1.46 cents based on the proceeding of the 4th respondent dated 23.02.2017 bearing Na. Ka. 1247/2013/AA2.

* * *

For Petitioner : Mr.A.D.Mujibur Rahman

For Respondents: Mr.M.Elumalai
Additional Government Pleader

O R D E R

This writ petition is for issuing a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent dated 07.03.2018 in Na.Ka.622/2017/A1 and to quash the same and for other consequential reliefs particularly to grant patta in respect of certain properties to which the petitioner claims title.

2. Brief facts that are necessary for the disposal of this writ petition are as follows: The petitioner's mother and sisters have executed a Release Deed in favour of the petitioner by a registered instrument dated 07.07.2010. On that basis, the petitioner claims title to the properties, which are the subject matter of this petition. It is stated that previously the dispute among the legal heirs of petitioner's grandfather and others was the subject matter of the suit in C.S. No.107/1937 and that the properties was partitioned by way of a compromise. It is stated that the petitioner's father got the properties by virtue of the compromise memo and as per the settlement deed executed by the petitioner's grandmother in favour of petitioner's father.

3. It is stated by the petitioner that the fourth respondent, Tahsildar recognised the petitioner as the lawful owner in respect of the properties, based on the documents furnished by the petitioner. It is further stated that the 4th respondent after finding that the revenue records have been altered in the name of wrong persons, the petitioner's representation for grant of patta was forwarded to the District Revenue Officer for correction of UDR records. Though the District Revenue Officer can deal with correction of error during UDR, pursuant to the executive order of the Government, the District Revenue Officer himself has found earlier in his order dated 20.3.2016 that the dispute in the present case does not involve mere correction of entries in UDR, but regarding mutation of names in the revenue records, based on rival claims supported by documents. However, by order dated

10.3.2016, the District Revenue Officer, remanded the matter to the fourth respondent for making a fresh enquiry and pass order as per Revenue Standing Order, namely R.S.O.31 dealing with mutation of revenue records. The first part of the order is perfectly valid having regard to the nature of dispute revealed from records. The second part of the order remitting the matter is not appropriate as the best course would be to direct the petitioner to approach the civil court.

4. Be that as it may, the representation of the petitioner was again dealt with by the fourth respondent as seen from the report of the fourth respondent dated 23.2.2017. It was found by the fourth respondent that the petitioner's claim on the basis of compromise and settlement deed are contrary to revenue records. It was observed that name of none of the predecessors in title of the petitioner was found in previous revenue records. It was also found that the pattadars in whose name the patta is standing are in possession of the properties. However it was also observed that the petitioners are entitled to the properties on the basis of documents produced by the petitioner. Based on the observation of the fourth respondent regarding petitioner's title, the petitioner applied for patta transfer. Thereafter, petitioner filed a writ petition in W.P. No.17791 of 2017 for issuing a writ of mandamus directing the respondents to issue patta. This court by order dated 13.7.2017, without expressing any opinion on merits directed the Sub Collector to pass orders on merits based on the proceedings of the fourth respondent dated 23.02.2017.

5. Pursuant to the direction of this court, the third respondent has passed the impugned order. Since the Revenue Divisional Officer has no jurisdiction to go into the disputed question of title for cancellation of patta, after recording the nature of rival claim directed the parties to approach the civil court and rejected the petitioner's petition for transfer of patta after cancelling the names of existing pattadars.

6. The third respondent passed the impugned order rejecting the representation of the petitioner relying upon the judgment of this court reported in (2011) 5 CTC 94, wherein, this court has held that the Revenue officials have no jurisdiction to go into the disputes regarding question of title at the time when application for mutation of patta is being considered.

7. In the present case, the petitioner has not produced any material to show that the petitioner's or his predecessor's name was in the revenue records or that the petitioner's or his predecessor's interest was recognised as persons holding patta for the lands. Therefore, this court, is of the view that the order of the third respondent is perfectly in order and this petition is liable to be

dismissed, reserving the liberty to the petitioner to approach the civil court.

8. Accordingly, the writ petition is dismissed with liberty to the petitioner to approach the civil court to establish his title. However, there is no order as to cost. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr

To

1.The District Collector
Thiruvallur District
Thiruvallur

2.The Sub-Collector
Ponneri, Thiruvallur District

3.The Revenue Divisional Officer
Ponneri Taluk
Thiruvallur District

4.The Tahsildar
Ponneri Taluk
Thiruvallur district

+1cc to M/s.M.MD.Ibrahim Ali, Advocate SR.15152
+1cc to the Government Pleader SR.14837

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PL(CO)
CB(01/04/2021)