



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No. 18556 of 2021

T.Santhi

... Petitioner

-Vs-

1.The Revenue Divisional Officer
Collectorate Complex
Salem-636 001

2. D. Santhi

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, or any other appropriate writ, order or direction in the nature of a writ, directing the 1st respondent to give an opportunity of personal hearing to the petitioner, during the enquiry upon the 2nd respondent's representation dated 21.03.2020, as directed by this Hon'ble Court in the order dated 21.07.2020 in WP No.9406 of 2020 on the file of this Hon'ble Court and pass such other further orders as may be necessary and thus render justice.

For Petitioner :: Mr.D.Shivakumaran

For Respondent-1 :: Mr.Yogesh Kannadasan
Government Advocate

For Respondent-2 :: No Appearance

O R D E R

The relief sought for in this writ petition is for a direction to the 1st respondent to give an opportunity of personal hearing to the petitioner, during the enquiry upon the 2nd respondent's representation dated 21.03.2020, as directed by this Hon'ble Court in the order dated 21.07.2020 in WP No.9406 of 2020 on the file of this Court and pass orders accordingly.

2. The learned counsel for the petitioner would submit that the 2nd respondent herein has filed an application before the 1st respondent herein to delete an alleged wrong entry made in Town Survey Land Register alleging that the petitioner's name has been wrongly included there. The land measuring an extent of



6.80 acres covered under Patta No.77 in Jagir Reddipatti Village, Salem Taluk and District was purchased by one Kuttiyammal. Subsequently, the said Kuttiyammal and her legal heirs sold 10,000 Sq.ft out of the larger extent of 6.80 acres in Survey No 146/3 to one Kandasamy on 23.02.1970. Subsequently, the said Kandasamy sold same one Arumuga Gounder and his brother Thangavel who is the petitioner's father on 22.03.1974. Another extent of 65 cents out of 6.80 acres in Survey No.146/3 was sold by the said Kuttiyammal and others to one Velayutham who is the father in law of the 2nd respondent. After the demise of the father of the petitioner, the above said 10,000 Sq.ft. was partitioned among the legal heirs. Thereafter, the mother of the petitioner settled an extent of 2324 Sq.ft in Survey No 146/3A (New Survey No 146/3A1) covered under present Patta No.1528, in the petitioner's favour by a Registered Settlement Deed dated 02.07.1998. Thereafter, the petitioner has obtained patta in his name and his name is also mutated in the Town Survey Land Register (TS No 4, Ward A, Block 21, Salem Corporation limits.) Out of the remaining extent of 7676 sq.ft, an extent of 7649 sq.ft. of land was sold by the petitioner herein, sister and brothers of the petitioner to Salem District Hotel Owners Association on 19.04.2010. The land settled in the petitioner's favour is now sub-divided as 146/3A 1B2 (part).

3. It has been further submitted that the 2nd respondent's father in law namely, Velayutham's property is situated in Survey No.146/3A 1B2 (part) on the south of the petitioner's property. The petitioner's land as well as the land belonging to the father-in-law of the 2 respondent are separately and specifically shown in the plan attached to the above said Sale Deed dated 19.04 2010, which would show that the 2nd respondent does not have anything to do with the lands of the petitioner.

4. The learned counsel for the petitioner would submit that it is pertinent to point out that the petitioner filed a suit in O.S No. 1139 of 1998 on the file of the Principal District Munsif Court, Salem against the father-in-law of the 2nd respondent ie. Velayutham and another Srinivasan, seeking for permanent injunction in respect of the subject property which was decreed on 02.07.2001 in favour of him. In the above circumstances, the 2nd respondent, instead of seeking a comprehensive relief through a Civil suit for declaration and other reliefs, if there is any grievance against the petitioner's right, title and possession of the lands comprised in S.No.146/3A 1B2 (part), settled in his favour, has adopted a short-cut approach of filing a petition dated 21.03.2020 before the 1st respondent herein as if the petitioner's name is wrongly added in the revenue records. Thereafter, the 2nd respondent has also filed a Writ Petition W.P. No.9406 of 2020 before this Court praying for issue of a Writ of Mandamus directing the deletion of an alleged wrong entry in T.R. dated 28.07.2017 and to issue a new T.S.L.R survey by adding the name of the 2nd



respondent, her son and daughters, by considering the representation dated 21.03.2020 filed before the 1st respondent herein. This Court by its order dated 21.07.2020, directed the 1st respondent to consider the representation dated 21.03.2020 filed by the 2nd respondent herein after issuing notice and affording sufficient opportunity to the petitioner herein before conducting any enquiry and pass orders in accordance with Law.

5. As per the aforesaid order passed by this Court, the 1st respondent sent a notice in Na.Ka No.2636/2020/A3 dated 29.12.2020 calling upon the petitioner to appear for enquiry at 4.30 PM on 29.01.2021. The petitioner had appeared along with his counsel and presented his written submissions along with all the documents relied upon by her. However, no enquiry was held on 29.01.2021. Subsequently on two occasions, even though the petitioner has approached the office of the 1st respondent, the enquiry did not take place because of the 1st respondent was pre-occupied with election duty. Hence, the petitioner was informed by the subordinates of the 1st respondent that due to Covid-19, the date of enquiry has not been fixed and that the enquiry notice will be sent to him in due course. But, the petitioner has not received any notice from the office of the 1st respondent for any enquiry so far. Hence, the petitioner has sent a representation dated 14.07.2021 requesting the 1st respondent to fix a date for the enquiry and afford an opportunity of hearing to him for producing the entire evidence to prove on his side as per directions of this Court in the earlier Writ Petition in W.P. No.9406 of 2020. The 1st respondent has received the petitioner's representation and acknowledged the same on 15.07.2021. However, there is no communication from their side so far. Hence, the petitioner is left no other alternative and efficacious remedy except to approach this Court by invoking under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to give an opportunity of personal hearing to the petitioner, during the enquiry upon the 2nd respondent's representation dated 21.03.2020, as directed by this Hon'ble Court in the order dated 21.07.2020 in WP No.9406 of 2020 on the file of this Court and pass orders accordingly.

6. The learned Government Advocate appearing for the 1st respondent would submit that the 1st respondent may be directed to consider the representation dated 14.07.2021 made by the petitioner herein.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent as well as perused the material available on records.

8. Having considered the aforesaid facts and circumstance of the case and submissions made by the learned counsel on either side, this Court without going into merits of the case,



directs the 1st respondent to consider the representation dated 14.07.2021 of the petitioner as this Court had passed an order dated 21.07.2020 in the earlier Writ Petition in W.P. No.9406 of 2020, after affording sufficient opportunity to the petitioner herein during the enquiry by summoning him for personal hearing and pass appropriate orders within a period of four months from the date of receipt of copy of this order.

9. With the aforesaid directions, the Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

Lbm

To:

The Revenue Divisional Officer
Collectorate Complex
Salem-636 001.

+1cc to Mr.D.Shivakumaran, Advocate SR.No.44823

+1cc to Government Pleader SR.No.45512

W.P. No.18556 of 2021

GPL(CO)
GMY(29/11/2021)