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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15322 of 2014
and M.P.Nos.1 and 2 of 2014

Perumal

... Petitioner

-Vs-

1. The District Revenue Officer,
Dharmapuri,
Dharmapuri District.

2. The Tahsildar,
Palacode Taluk Office,
Palacode,
Dharmapuri District.

3. Nagalingam

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records in Na.Ka.No.907/2010/Pa2 dated 03.03.2014 passed by the first respondent and quash the same.

For Petitioner : Mr.Muthappan for
V.R.Annagandhi

For R1 and R2 : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorari, calling for the records in Na.Ka.No.907/2010/Pa2, dated 03.03.2014 passed by the first respondent and quash the same.



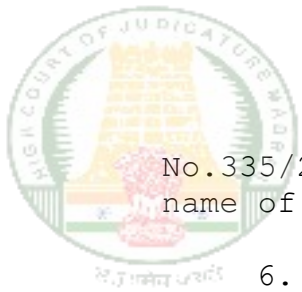
2. Heard Mr.Muthappan, learned counsel appearing for the petitioner and Mr.V.Jeevagiridharan, learned Additional Government Pleader appearing for the respondents 1 and 2.

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3. The property comprised in Survey No.335/2, ad-measuring 0.35.5 hectares, was originally belonged to one Govinda Gounder. The petitioner's father one Rangan and third respondent's father one Vetrayan are brothers. They are the sons of the said Govinda Gounder. By the oral partition, the property was allotted to the petitioner's father. After the petitioner's father's demise, the property devolved upon the petitioner. The said property has been in the continuous possession and enjoyment of the petitioner.

4. In view of the above, the Patta has been issued in favour of the petitioner in Patta No.1101. However, it was challenged by the third respondent before the first respondent. The first respondent issued notice to the petitioner and the third respondent and conducted a detailed enquiry. In fact, the petitioner was served with notice for the enquiry to be held on 12.08.2010. The petitioner appeared for enquiry on 12.08.2010 and gave his statement before the first respondent. The first respondent is the competent authority to issue orders for cancellation or modification of Patta under UDR scheme. Therefore, the application submitted by the third respondent for modification of Patta alleging that the subject land comprised in Survey No.335 to an extent of 5.17 acres in Patta No.295 was originally owned by his father Vetrayan before even implementation of UDR scheme. The third respondent's father had 3 sons, i.e. third respondent along with one Saminathan and Narayanan. The third respondent was in possession of the subject land and due to his personal commitment he had gone to Bangalore. Therefore, the said land was handed over to One Chinnasamy son Mahalingam under the oral agreement for the maintenance.

5. During the implantation of UDR scheme, the third respondent was not residing in the subject property. Therefore, the subject property was recorded and registered in the names of Mahalingam son of Chinnasamy and the petitioner herein. Thereafter, the third respondent came to the subject land and had taken possession under the same from the said Mahalingam son of Chinnasamy. Hence, he made request to cancel the said Pattas in favour of the said Mahalingam, in respect of the land comprised in Survey No.335/1 in Patta No.1101 and in the name of the petitioner in respect of the land comprised in Survey



No.335/2 under Patta No.1197 and to restore the lands in the name of the third respondent.

6. Thereafter, by the report received from the second respondent dated 13.10.2011, and the Assistant Director of Survey, Dharmapuri, restored the subject land in favour of the third respondent and cancelled the sub division of Survey No.335/1 and Survey No.335/2 and also directed to restore the original status.

7. Thereafter, the petitioner also filed a suit in O.S.No.14 of 2014 seeking declaration and injunction in respect of the very same property and the said suit is pending for declaration on the file of the District Munsif Court, Dharmapuri.

8. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent and the writ petition is devoid of merits and is liable to be dismissed.

9. However, the petitioner is at liberty to approach the first respondent, subject to the result of the suit in O.S.No.14 of 2014 on the file of the District Munsif Court, Dharmapuri.

10. In the result, this writ petition stands dismissed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The District Revenue Officer,
Dharmapuri,
Dharmapuri District.



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2. The Tahsildar,
Palacode Taluk Office,
Palacode,
Dharmapuri District.

+1cc to M/s.V.R.AnnaGandhi, Advocate Sr.65519
+1cc to the Government Pleader Sr.66126

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srg 29/12/2021