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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.20525 of 2021

Mrs.Senthamarai

... Petitioner

-Vs-

1.The District Collector,
Vellore District, Vellore.

2.The Tahsildar,
Vellore District, Vellore.

3.Mani

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records pertaining to the impugned summon No.Na.Ka.Aa/1781/2020 dated 09.09.2021 passed by the 2nd respondent herein and quash the same as illegal and consequently direct the respondents herein not to give any disturbance in peaceful possession and enjoyment of the petitioner's property situated at No.25, Dharmarajapuram Town, Alankayam Village, Vaniyampadi Taluk, Vellore District and pass orders accordingly.

For Petitioner :: Mr. R. Ramesh

For Respondents 1 & 2 :: Mr. Yogesh Kannadasan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is to issue a Writ of certiorarified mandamus calling for the records pertaining to the impugned summon No.Na.Ka.Aa/1781/2020 dated 09.09.2021 passed by the 2nd respondent herein and quash the same and consequently direct the respondents herein not to give any disturbance in peaceful possession and enjoyment of the petitioner's property situated at No.25, Dharmarajapuram Town, Alankayam Village, Vaniyampadi Taluk, Vellore District and pass orders accordingly.



2. The learned counsel for the petitioner would submit that the petitioner's father in law namely, Late Mani was having 21 acres of lands and maintaining the same. He died on 15.9.1987 leaving behind his legal heirs namely wife, four sons and three daughters. The petitioner's mother in law Dhanammal who now aged about 95 years is still living along with the petitioner herein. After the death of the petitioner's Father in Law, the legal heirs of the deceased, discussed with each other and mutually agreed upon to divide the property of 21 acres. Accordingly, there is no written partition or settlement deed entered between them but only oral partition was entered between the family members. After that all the legal heirs have got their respective shares entered in the year 1988 itself.

3. It has been further submitted that the petitioner's husband got shares comprised in Survey Nos. 12, 30 & 31 of the above property situated at Pethur Village. After getting his respective share, he was in exclusive possession and enjoyment of the same. Out of love and affection on the petitioner, the petitioner's husband executed Settlement deed on 16.8.2019 in favour of the petitioner for the security of her life and the same was registered on the file of S.R.O. Vaniyampadi vide Document No. 6601/2019. Thereafter, the petitioner was in exclusive possession and enjoyment of the same and also obtained Patta No.1961 in her name. The authorities after made proper enquiry and inspection, they assigned patta in petitioner's favour for the total extent of 5 acres 69 cents out of 21 acres. Out of which the petitioner's mother in law gave the shares of 2 acres 10 cents vide Survey No. 175/1, 175/2 to the petitioner's husband and the remaining portion of 2 acres 10 cents to the Petitioner's in law namely, Mani i.e. 3rd Respondent herein. Under such circumstances, the 3rd respondent made a false complaint before the Tahsildar/2nd Respondent herein, to cancel the patta issued in the name of the petitioner. In this regard an enquiry was conducted by the V.A.O. and the Revenue Inspector. The petitioner's husband explained all the facts and also gave the details of the property in Survey Nos. 100, 101, 102, 103/2, 104, 109/19 possessed by her Father in Law. The above survey numbers are having 11 acres of land. In the above said 11 acres, some of the legal heirs have divided between them i.e. the petitioner's brother in laws and sister in laws. In those properties, they are not entered into partition deed or settlement deed but only oral partition deed entered between them and also after got rights, they sold out the properties to some third persons. Out of which the petitioner's husband entitled to the property in survey Nos. 12, 30 & 31 having an extent of 5 acres 69 cents. The petitioner's husband was in exclusive possession and enjoyment of the same and this property only was executed in the petitioner's favour by way of settlement deed.



4. It has been further submitted by the learned counsel for the petitioner that the said Mani made false complaint with the mala fide intention against the petitioner's husband before the Respondents 1 & 2 herein. As the 2nd Respondent had already conducted enquiry in this regard and closed the complaint and issued Patta in the name of the petitioner, the same authority cannot adjudicate the same issue and the Higher Authority of the Revenue Divisional Officer alone can adjudicate the matter if the 3rd respondent is aggrieved by issuing the patta in the name of the petitioner. However, the 3rd Respondent has pressurized the 2nd Respondent to issue show cause notice to the petitioner to cancel the patta issued in her favour.

5. The learned counsel for the petitioner would further submit that one of the petitioner's brother in law, namely Mr. Elangovan got the property in Survey Nos. 635/1 and 636/1 having a total extent of 4 acres 30 cents. The petitioner's father in law purchased the property in favour of Elangovan, Ganesan, Malarvizhi, Anbuchezhian due to love and affection on them. Except the petitioner's husband, others have sold out their respective shares. Out of which the petitioner's mother in law Danammal having her share in survey Nos. 175/1 and 175/2A measuring to a total extent of 4 acres 20 cents, decided to execute a settlement deed in favour of the petitioner's husband Anbuchezhian on 21.6.2007. In that 50% shares that is 2 acres 10 cents assigned in favour of the petitioner's husband and the same was also registered on the file of S.R.O. Vaniyambadi vide Document No. 2956/2007 and the remaining 2 acres 10 cents executed in favour of Mani i.e. 3rd Respondent herein and the same was also registered on the file of S.R.O. Vaniyambadi vide Document No. 2955/2007.

6. It has been further submitted that the 3rd respondent wanted to sell the property in Survey Nos. 175/1 and 175/2A in his share of 2 acres. Accordingly the petitioner's husband was willing to purchase the same for a total sale consideration of Rs. 11,65,000/-. Accordingly, the petitioner's husband paid Rs. 10,65,000/- in favour of Mani on various dates and Rs. 1,00,000/- was pending. The 3rd respondent after entering agreement with the petitioner's husband, he absconded from the Village since he got various loan in the Pharmacy Business and failed to repay the loan and FIR has been registered against him. After four years, the 3rd respondent has made a false complaint before the 2nd respondent against the petitioner to cancel the patta issued in the name of the petitioner in Survey Nos. 12, 30 & 31. On the basis of the complaint made by the 3rd respondent, the 2nd Respondent herein issued the notice to the petitioner on 09.09.2021 vide Proceedings No. Na.Ka. Aa/1781/2020 dated 09.09.2021 why not to cancel the patta issued in her favour with regard to the property situated at Survey Nos. 12, 30 & 31. Hence, the petitioner is left with no other alternative remedy except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India for



issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the aforesaid impugned summons passed by the 2nd respondent and quash the same and directing the respondents herein not to give any disturbance in her peaceful and enjoyment of the property sitauted at No.25, Dharmarajapuram Town, Alankayam Village, Vaniyampadi Taluk, Vellore District.

7. The learned Government Advocate for the respondents 1 & 2 would submit that the patta has been issued in the name of the petitioner based on the Settlement Deed executed by her husband in her favour. It is said that based on the complaint made by the 3rd respondent, the VAO and Revenue Inspector had already conducted enquiry and closed the complaint. However, there are no details available for conducting the enquiry by the 2nd respondent. Now, the petitioner is called upon by summon No.Na.Ka.Aa/1781/2020 dated 09.09.2021 to appear before the 2nd respondent for submitting original documents on 13.09.2021 for enquiry in this regard. Hence, the petitioner may be directed to appear before the 2nd respondent for the enquiry to prove her title over the said property and the 2nd respondent may be directed to pass orders on enquiry within a time frame as fixed by this Court.

8. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 as well as perused the material available on records.

9. On a perusal of the typed set of papers and having regard to the submissions made by the petitioner herein, it has been stated that with regard to the title of the said property, an enquiry was already conducted by the 2nd respondent herein and closed the same by issuing Patta in the name of the petitioner. Under such circumstances, the 2nd respondent is not having jurisdiction to conduct the enquiry for the same issue. Hence, the aggrieved party/3rd respondent herein has to approach the Appellate Authority concerned for his remedy since there is no jurisdiction to conduct the enquiry by the same authority for the same issue after the issue came to an end therein. However, there are no details available in the typed set of papers as to the earlier enquiry conducted by the 2nd respondent herein. In case, the 2nd respondent has not conducted the enquiry earlier, the petitioner is directed to attend the Enquiry before the 2nd respondent by producing original documents relied on by her and after the enquiry, the 2nd respondent is directed to pass appropriate orders on the enquiry within a period of four weeks from the date of receipt of copy of this order. In case, the 3rd respondent is aggrieved by the order passed by the 2nd respondent pursuant to the enquiry, it is open to the 3rd respondent to approach the Appellate Authority to work out his remedy.



10. With the aforesaid directions, the Writ petition is disposed of accordingly. As a consequence, the connected miscellaneous petition is closed if any. There is no order as to costs.

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Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1.The District Collector,
Vellore District, Vellore.

2.The Tahsildar,
Vellore District, Vellore.

+1cc to Mr.R.Ramesh, Advocate SR. No.49623

+1cc to Government Pleader SR. No.50490

W.P. No.20525 of 2021

PL (CO)

PR (27/12/2021)