



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.23771 OF 2021 AND
WMP.NO.25026 OF 2021

D.Dhananjeyan

... Petitioner

Vs

1. The District Collector,
Office of the Collectorate Building,
Salem District.
2. The Revenue Divisional Officer,
Office of the Collectorate Building,
Salem District.
3. The Tahsildar,
Salem West Taluk, Salem District.
4. P.Vajravel
5. Dr.V.Kirubha Shankar

... Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order passed in Na.Ka.No.1878/2021/A3 dated 01.10.2021 and quash the same and to pass a suitable order within a stipulated time.

For Petitioner : Mr.L.Pachaiyappan
for M/s.Law Vision

For R1 to 3 : Mr.A.Selvendran,
Government Advocate

ORDER

This writ petition is filed to issue a Writ of Certiorari calling for the records relating to the impugned order passed in Na.Ka.No.1878/2021/A3 dated 01.10.2021 and quash the same.



2. The case of the petitioner is that the land comprised in survey No.170/12 admeasuring 10,893 sq.ft. situated at Azhagapuram Pudhur, Salem belonged to the petitioner's grandfather and three others. The said property was allotted to his grandfather and thereafter his grandfather and his sons i.e. Dharmalingam, Theerthagiri and Vajravel have partitioned the same by partition deed dated 11.07.1980 registered vide document No.3830 of 1980 on the file of the Joint Sub Registrar No.I, Salem. Accordingly, the lands comprised in S.No.170/9 and 170/14 were allotted to the petitioner's father i.e. Dharmalingam. The petitioner's father and his younger brother Theerthagiri are entitled to common vari land comprised in survey No.170/12. Further all the sons of the said Periyasamy are entitled to have common share in the well situated in survey No.169/22. In accordance with the partition deed, the fourth respondent does not have any right over the land comprised in survey no.170/12 which was subsequently sub-divided as Town Survey No.19/1,2,3,4, & 5, ward E, Block No.48 in Salem. Thereafter, the family members of the said Dharmalingam i.e. the petitioner's father have partitioned the property and also part of the land sold out in favour of one, M.D.Sridhar to an extent of 7,350 sq.ft. by registered sale deed dated 14.07.2020 vide document No.3494 of 2020. The remaining extent of 3,543 sq.ft. belong to the petitioner and his other family members comprised in survey no.19/1.

3. While being so, the fourth respondent's name was inadvertently included in the joint patta for the said land where the fourth respondent has no right or title over the said land. Therefore, the petitioner gave representation to the third respondent to remove the fourth respondent's name from the Town Survey Land Register by paying necessary fees. The third respondent conducted enquiry and removed the name of the fourth respondent from TSLR in respect of the subject property. In the meanwhile, the fourth respondent on the strength of the TSLR entry, executed settlement deed in favour of the fifth respondent on 05.11.2020 and registered as document No.6608 of 2020 on the file of the Sub Registrar, Suramangalam, Salem. Therefore, the petitioner filed suit in OS.No.149 of 2021 on the file of the Additional District Munsif Court-III, Salem challenging the settlement deed executed by the fourth respondent in favour of the fifth respondent. Aggrieved by the order passed by the third respondent, thereby removed the name of the fourth respondent from the TSLR dated 16.11.2020, the fourth and fifth respondents filed appeal before the second respondent. However, the second respondent without issuing any notice to the petitioner or his family members passed the impugned order dated 01.10.2021, thereby ordered to include the name of the fourth respondent in the TSLR in respect of the subject property.



4. On perusal of the impugned order dated 01.10.2021, no notice was issued to the petitioner or his family members. Only on receipt of the report from the third respondent, the second respondent passed the impugned order. It amounts to clear violation of principles of natural justice and as such the impugned order cannot be sustained as against the petitioner. On this sole ground, the impugned order is liable to be set aside.

5. Accordingly, the impugned order dated 01.10.2021 is set aside. The enquiry is remanded back to the second respondent for fresh disposal. The second respondent is directed to issue notice to the petitioner and the respondents 4 and 5 herein along with other counter parties, if any, and after giving them opportunity of hearing and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above direction, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Office of the Collectorate Building,
Salem District.
2. The Revenue Divisional Officer,
Office of the Collectorate Building,
Salem District.
3. The Tahsildar,
Salem West Taluk, Salem District.

+1cc to the Government Pleader, S.R.No.58049

WP.No.23771 of 2021

KG(CO)
PM/26/11/2021