

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.2071 of 2017
and
WMP.No.2049 of 2017

Mrs.N.Gowri

... Petitioner

-Vs-

1.The Tahsildar
Chengalpattu Taluk
Kancheepuram District.

2.The Village Administrative Officer
Thirukkatchur Village
Chengalpattu Taluk, Kancheepuram District.

3.The Joint II Sub Registrar
Chengalpattu.

3.Mr.Kothandam

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 2 herein not to interfere with the patta issued in favour of the petitioner's husband bearing Patta No.4842 in respect of S.No.347/1B2B measuring about 5 cents, in Thirukkatchur Village, Chengalpattu Taluk, Kancheepuram District without following the due process of law.

For Petitioner : Mr.B.Divakaran

For Respondents : Mr.N.Inbanathan
Additional Government Pleader -
for RR 1 to 3

Mr.L.Venkatesan - for R4

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O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 to 2 herein not to interfere with the patta issued in favour of the petitioner's husband bearing Patta No.4842 in respect of S.No.347/1B2B measuring about 5 cents, in Thirukkatchur Village, Chengalpattu Taluk, Kancheepuram District without following the due process of law.

2. The case of the petitioner is that, in respect of the land at S.No.347/1B2B in Thirukkatchur Village, Chengalpattu Taluk, Kancheepuram District, which land, according to the petitioner, belongs to the petitioner's husband, a patta has been issued by the first respondent Tahsildar in Patta No.4842 on 05.07.2013 and the property has been in possession and enjoyment of the petitioner's husband and subsequently to the petitioner, who is the wife of the said Pattadar Narayanan.

3. When that being so, it is the further case of the petitioner that, the fourth respondent seems to have given an application to the first respondent to cancel the patta ie., Patta No.4842 issued in favour of the petitioner's husband clandestinely without the knowledge of the petitioner and without any enquiry, without following any due process of law. Apprehending such unlawful act on the part of the first respondent, the petitioner has filed the present writ petition with the aforesaid prayer seeking a direction to the respondents not to interfere with the patta issued in favour of the petitioner's husband.

4. Though such a larger prayer was sought for by the petitioner, Mr.Divakaran, learned counsel for the petitioner, during the arguments, would submit that, if it is ensured that the Tahsildar is taking up the application or request if any is made by the fourth respondent, he should decide the same by adopting due process of law, which means, giving notice to both the parties and conducting an enquiry, and in such case, the petitioner may not have any grievance. But, without adopting due process of law if clandestinely any order is passed by the first respondent cancelling the patta issued in favour of the petitioner's husband, that will have an impact on the petitioner's property. Therefore, apprehending that aspect, the petitioner has approached this Court in order to ensure that some suitable direction is given to the respondents, he contended.

5. Heard Mr.N.Inbanathan, learned Additional Government Pleader, who would submit that, whether the fourth respondent has given any request or application to that effect to cancel the patta issued in favour of the petitioner or her husband, is

not known. Assuming if any such application is received from the fourth respondent, certainly that would be decided on merits by the first respondent by adopting due process of law and in this regards, notices would be given to both the petitioner as well as the fourth respondent and after conducting enquiry only, a final decision would be taken. Therefore, the petitioner need not have any apprehension and based on such apprehension, the petitioner cannot seek the indulgence of this Court, he contended.

6. Heard Mr.Divakaran, learned counsel for the petitioner, Mr.N.Inbanathan, learned counsel for the respondents 1 to 3 and Mr.L.Venkatesan learned counsel for the fourth respondent.

7. On the basis of the apprehension that, the first respondent may act upon clandestinely on the alleged request submitted by the fourth respondent for cancellation of patta in Patta No.4842 in respect of the land referred to above, this writ petition has been filed by the petitioner. However, as of today, no such action seems to have been taken by the first respondent as it was clarified by the learned Additional Government Pleader.

8. Be that as it may. It is the duty of the first respondent to decide whatever application comes from any third party in respect of any property, whether it comes under his jurisdiction, for issuance of patta or cancellation of patta and such kind of application has to be decided on merits. Of course, that kind of function entrusted on them, under the provisions of the Patta Passbook Act cannot be restrained and for that matter, no revenue authority can be restrained from exercising the duty cast upon them under the provisions of the Statute.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

10. That the first respondent is hereby directed to ensure that, if at all any application or petition submitted either by the fourth respondent or by any third party in respect of the land in question covered under Patta No.4842, at the revenue village, which was given in the name of the petitioner's husband one Narayanan, such petition / application shall be decided by the first respondent under due process of law of course by giving an opportunity of being heard to the petitioner as well as the fourth respondent or any other third party, who makes such application in accordance with law. Without adopting due process of law, no such decision for grant of patta or cancellation of patta shall be made in respect of the land in question covered under Patta No.4842 in respect of S.No.347/1B2B

in Thirukkatchur Village, Chengalpattu Taluk, Kancheepuram District.

11. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Tahsildar, Chengalpattu Taluk,
Kancheepuram District.
- 2.The Village Administrative Officer,
Thirukkatchur Village
Chengalpattu Taluk, Kancheepuram District.
- 3.The Joint II Sub Registrar,
Chengalpattu.

+1cc to Mr.B.Divakaran, Advocate, S.R.No.23625
+1cc to the Government Pleader, S.R.No.24290

W.P.No.2071 of 2017

LN(CO)
CB(09/07/2021)

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