



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.9276 OF 2017

AND

W.M.P.NOS.10251 & 10252 OF 2017

Vijendiraiah

... Petitioner

.Vs.

1. The District Revenue Officer,
District Collector's Office,
Krishnagiri,
Krishnagiri District.
2. The Sub Collector,
Sub Collector Office,
Hosur, Krishnagiri District.
3. The Tahsildar,
Taluk Office,
Dhenkanikottai,
Krishnagiri District.
4. Maregavudu
5. Narayanappa
6. Lokesh
7. Venkatasamy

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the second and third respondents relating to Na.Ka.2021/2014/B-3 dated 28.09.2016 and Na.Ka.No.3989/2014(B1) dated 06.12.2016 respectively, quash the same and consequently direct respondents 1 to 3 herein to issue patta to the petitioner as per the proceedings in Na.Ka.No.3989/2014(B1) dated 08.05.2015 passed by the third respondent within the time to be stipulated by this Court.



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For Petitioner : Mr.R.Bharath Kumar
For R1 to 3 : Mr.Richardson Wilson
Government Advocate
For R4 to 7 : No appearance

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records of the second and third respondents relating to Na.Ka.2021/2014/B-3 dated 28.09.2016 and Na.Ka.No.3989/2014(B1) dated 06.12.2016 respectively, quash the same and consequently direct respondents 1 to 3 herein to issue patta to the petitioner as per the proceedings in Na.Ka.No.3989/2014(B1) dated 08.05.2015 passed by the third respondent within the time to be stipulated by this Court.

2. The lands comprised in survey nos.576, 433, 434, 441, 442, 443, 552/2, 526, 531, 545, 546, 550/1, 551, 581, 582, 557, 519, 553, 573, 440/2, 444, 544, 535, 567, 354 and 570 situated at Kundumaranapalli Village, Dhenkanikottai Taluk, Krishnagiri District originally belonged to the petitioner's father who had purchased 1/3 share over the said properties by the registered sale deeds as document Nos.111 of 1947, 2746 of 1946 and 4174 of 1961 from one, Sonnamma. His father also acquired title over the property by way of release deed dated 19.02.1961 registered vide document No.4174 of 1961. He died intestate on 10.12.1980 leaving behind the legal heirs to succeed his estate. When his father was alive, the said property was mortgaged with Hosur Land Development Bank. When the Government of Tamilnadu waived all agricultural loans, they obtained certificate to the effect that the agricultural loan in respect of the said property has been waived by the Government of Tamilnadu and obtained all title deeds. However, they found that the said properties were fraudulently transferred in favour of the stranger who had no title or right over the property. Therefore, the petitioner submitted representation on 11.09.2013 to the respondents requesting them to cancel the patta issued in favour of the third parties and issue fresh patta in his favour. Since the said representation was not considered, the petitioner approached this Court in WP.No.10719 of 2014 before this Court and by order dated 22.01.2015, this Court directed the third respondent to consider the representation of the petitioner and pass orders. As directed by this Court, by proceedings dated 10.04.2015 the first respondent directed the third respondent to conduct enquiry and pass orders by communication dated 10.04.2015. The third respondent issued summons to all the



parties concerned and conducted enquiry. The third respondent found that the petitioner is entitled for patta in respect of 26 survey Nos. and ordered to issue patta in respect of 26 survey Nos. in favour of the petitioner by order dated 08.05.2015. However, the Deputy Tahsildar, Dhenkanikottai had issued patta only in respect of 10 survey Nos. leaving 16 more survey Nos.

3. Therefore, again the petitioner sent representation to include the left out survey Nos. in their patta. Since the said request was not considered, again the petitioner approached this Court in WP.No.26334 of 2015 and by order dated 24.08.2015, this Court directed to consider the representation and pass orders. In fact, the petitioner also filed contempt petition for non compliance of the order dated 24.08.2015 in Cont.P.No.805 of 2016. While pending the contempt petition, the second and third respondents passed the impugned orders, thereby set aside the order dated 08.05.2015 passed by the third respondent and directed the petitioner to approach the first respondent for redressal of grievances. In fact, already the first respondent directed the third respondent to conduct enquiry by the proceedings dated 10.04.2015. Accordingly, the third respondent conducted detailed enquiry and passed order on 08.05.2015 for issuance of patta in favour of the petitioners.

4. On perusal of the impugned order dated 06.12.2016, revealed that the third respondent has no power to make change in the UDR and the District Revenue Officer has only got power to make any change in the UDR. It is also curious to note that the third respondent already conducted detailed enquiry and passed detailed order on 08.05.2015 and ordered to issue patta in favour of the petitioner insofar as the entire 26 survey Nos.

5. On perusal of the counter filed by the second respondent, revealed that after enquiry conducted by the third respondent, submitted enquiry report on 06.03.2015. In the meanwhile, letter dated 10.04.2015 was issued by the first respondent to take necessary action as directed by this Court by order dated 22.01.2015 based on the representation submitted by the petitioner. Accordingly, the third respondent passed order in favour of the petitioner dated 08.05.2015. After order passed by the third respondent, the then Tahsildar received objections from various land holders. It revealed that there were some mistakes in the order passed by the third respondent while passing the order dated 08.05.2015. Therefore, there is no infirmity or illegality in the order passed by the third respondent.

6. On perusal of the order passed by the second respondent dated 28.09.2016, revealed that when the mistake committed in UDR, the second respondent has no power to rectify the mistakes



and only the first respondent has got power to rectify the mistakes committed in the UDR. Therefore, he set aside the order passed by the third respondent dated 08.05.2015 and directed the third respondent to conduct enquiry. When the second respondent has no power to rectify the mistake committed in the UDR, the third respondent who is being subordinate to the second respondent also has no power to rectify the mistake in the UDR. Therefore, the impugned orders cannot be sustained in the eye of law and are liable to be set aside. At the same time, the order passed by the third respondent dated 08.05.2015 also cannot be sustained since the third respondent has no power to rectify the mistakes committed in the UDR. In fact this Court directed only the first respondent to consider the representation of the petitioner in the earlier writ petition. However, the first respondent directed the third respondent to conduct enquiry and pass order.

7. Accordingly, this writ petition is allowed and the impugned orders dated 28.09.2016 and 06.12.2016 are set aside and also the order dated 08.05.2015 on the file of the third respondent in Ref.Na.Ka.No.3989/2014/(B1) is also set aside. The matter is remanded back to the first respondent for fresh disposal. The first respondent is directed to issue notice to the petitioner as well as the respondents 4 to 7 herein and other counter parties, if any, within a period of two weeks from the date of receipt of copy of this order and after giving them opportunity of hearing and pass orders on merits and in accordance with law within a period of sixteen weeks thereafter. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
District Collector's Office,
Krishnagiri,
Krishnagiri District.



2. The Sub Collector,
Sub Collector Office,
Hosur, Krishnagiri District.

3. The Tahsildar,
Taluk Office,
Dhenkanikottai,
Krishnagiri District.

+lcc to Mr.R.Bharath Kumar, Advocate, S.R.No.54871
+lcc to the Government Pleader, S.R.No.55067

W.P.NO.9276 OF 2017

GPL (CO)
PBS/03/12/2021