



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.10.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.4633 of 2017

and

WMP No. 4884 of 2017

1. P.Balu @ Balakrishnan (Deceased)

2. B.Kamatchi

3. B.Jayachandran

4. B.Jayasankari

5. B.Jayasudha

(P2 to P5 substituted as LRs
of deceased sole petitioner vide
order dated 21.10.2021 made in
WMP No.23163 of 2021 in
WP.No.4633 of 2017)

... Petitioners

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The District Revenue Officer /
Sub Collector,
Kancheepuram District,
Kancheepuram.

3. The Revenue Divisional Officer,
Tambaram, Chennai - 45.

4. The Special Tahsildar,
Natham Land Scheme,
Mudichoor Road,
West Tambaram,
Chennai - 600 045.

5. The Tahsildar,
Sholinganallur Taluk Office,
Kancheepuram District.

6. S.Mohan

.... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the third respondent passed in proceedings No.Na.Ka.No.2656/2013/A, dated 13.08.2013 and quash the same and directing the third respondent to restore the patta in favour of the petitioners name in respect of the house site land (Grama Natham) comprised in S.No.216/17 of Sholinganallur Village, bearing patta No.787 to an extent of 103 sq.mts situated at Pillaiyar Koil Street, Akkarai, Sholinganallur Village, then Tambaram Taluk now Sholinganallur Taluk, Kancheepuram District.

For Petitioner : Mr.J.Mohan Prasath
for Mr.V.Jaisankar

For R1 to R5 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R6 : Mr.T.Sundaravadanam

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent, thereby cancelling the patta issued in favour of the petitioners and directed to issue patta in the name of the sixth respondent's father.

2. Heard, Mr.J.Mohan Prasath, learned counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 to 5 and Mr.T.Sundaravadanam, learned counsel for the sixth respondent.

3. According to the deceased petitioner, he purchased the property from the father of the sixth respondent herein through his power of attorney by a registered sale deed dated 16.06.2009 vide document No.1759 of 2009 to an extent of 2 cents (872 sq.ft.) comprised in Survey No.216/17 situated at Sholinghanallur Village and he was issued patta in Patta No.787 on 01.03.2018.

4. Whereas, the sixth respondent filed a counter stating that his father sold only two cents which was purchased from one Saroja and he retains the ancestral property which was succeeded from his father and it was not sold out by way of any documents and continuously he is in possession and enjoyment of the extent of the property. Thereafter, his father settled the property in favour of the sixth respondent by a registered settlement deed dated 23.10.2013 vide document No.7323 of 2013.

5. In the mean while, the petitioner on the strength of the



patta attempted to interfere with the peaceful possession and enjoyment of the said property which was settled in favour of the sixth respondent herein. Therefore, the sixth respondent was constrained to file a suit in O.S.No.155 of 2017 on the file of the District Munsif Court, Alandur for permanent injunction. Thereafter, the sixth respondent filed a petition to cancel the patta issued in favour of the deceased petitioner. However, the third respondent while passing an order impugned dated 13.08.2013 failed to issue any notice to the petitioner and did not conduct any enquiry before passing an impugned order. Though, the copy marked to the petitioner, he was not issued any notice and no enquiry was conducted. It is a clear violation of principles of natural justice and on this ground alone the impugned order cannot be sustained as against the petitioner.

6. In view of the above, the proceedings No. Na.Ka.No.2656/2013/A dated 13.08.2013 passed by the third respondent is hereby set aside. The matter is remanded back to the third respondent for fresh enquiry. The third respondent is directed to issue notice to the petitioners and the sixth respondent and other parties, if any, in respect of the subject land comprised in Survey No.216/17, Sholinghanallur Village within a period of two weeks from the date of receipt of a copy of this order, after giving an opportunity of hearing to the parties and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

7. In the result, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer /
Sub Collector,
Kancheepuram District,
Kancheepuram.



3. The Revenue Divisional Officer,
Tambaram, Chennai - 45.

4. The Special Tahsildar,
Natham Land Scheme,
Mudichoor Road,
West Tambaram,
Chennai - 600 045.

5. The Tahsildar,
Sholinganallur Taluk Office,
Kancheepuram District.

+1cc to Mr.T.Sundaravadanam, Advocate, S.R.No.54081
+1cc to the Government Pleader, S.R.No.54269

W.P.No.4633 of 2017 and
WMP No. 4884 of 2017

GPL (CO)
CT 02/12/2021