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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.09.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.11041 of 2017 and
WMP.Nos.11992 & 11993 of 2017

M.Settu ...Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram

2.The Revenue Divisional Officer,
Tambaram,
Kancheepuram District

3.The Tahsildar,
Sholinganallur Taluk,
Kancheepuram District

4.Meenakshi Nagar Kudieruppu Nala Sangam,
Rep. by its Secretary,
No.17, 3rd Street,
Meenakshi Nagar, Pallikaranai Village,
Sholinganallur Taluk,
Kancheepuram District ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the order passed by the second respondent in proceedings Pa.Mu.No.616/2016/A dated 04.03.2017 quash the same and further directing the second respondent to restore patta in favour of the petitioner's father.

For Petitioner : Mr.Kumaresh Babu
for Mr.V.Balamurugane

For Respondents
For R1 to 3 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R4 : Mr.T.V.G.Kartheeban

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ORDER

This writ petition has been filed to issue a writ of certiorarified mandamus calling for the records relating to the order passed by the second respondent in proceedings Pa.Mu.No.616/2016/A dated 04.03.2017, quash the same and further directing the second respondent to restore patta in favour of the petitioner's father.

2. The case of the petitioner is that his father Manickam was allotted with land as Thalayari Maaniyam in respect of the land comprised in survey No.377/1C3A, 377/6A, 377/6A2 and 377/7 situated at Pallikaranai Village, Kancheepuram District to an extent of 0.17 ares. He was also issued patta No.2916. That apart, the land comprised in survey No.377/1C1, 377/101A to an extent of 0.13 ares issued patta No.1655 in favour of his father. His father died on 05.06.1952 leaving behind the petitioner and other legal heirs. By the deed of partition dated 18.09.2013, they partitioned the property and the petitioner was allotted 14.7 cents of land out of 66 cents comprised in all the survey Nos. In the meanwhile, the fourth respondent filed suit in OS.No.17 of 2006 on the file of the District Munsif Court, Alandur for permanent injunction in respect of the common passage of 20 feet. However, the said suit was dismissed for default. Having been failed before the civil court, the fourth respondent approached the second respondent for cancellation of patta and the second respondent without issuing any notice to the parties concerned, cancelled the patta by order dated 13.03.2014. Therefore one of the neighbour of the petitioner, Mr.Manokar filed writ petition before this Court in WP.No.14253 of 2015 and by order dated 22.03.2016, this Court set aside the order passed by the second respondent and remitted to the second respondent for fresh consideration. While remitting back the matter, this Court observed as follows:

> Accordingly, the impugned order dated 13.03.2014 passed by the second respondent (The Revenue Divisional Officer, Tambaram) is set aside and the matter is remitted back to the second respondent for passing a fresh order. The petitioner is permitted to produce all the documents in support of his claim along with a copy of this order to the second respondent within a period of two weeks from the date of documents, the second respondent is directed to conduct an enquiry by affording an opportunity of personal hearing to the petitioner as well as to the fifth respondent and all the necessary parties, if any and pass appropriate orders, within a period of six weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by

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the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law.

3. Again, the second respondent passed the impugned order without issuing notice to the petitioner or his father and cancelled the patta stands in the name of his father in patta Nos.2916 and 1655 in respect of the above said properties.

4. On perusal of the earlier order dated 13.03.2014 passed by the second respondent, in which the fourth respondent asked for cancellation of patta stands in the name of one, Manickam in patta Nos.2916 and 1655 for the above said properties. However, the second respondent did not issue any notice to the said Manickam or the petitioner claiming to be the son of the said Manickam.

5. Mr.Kumaresh Babu, the learned counsel for the petitioner submitted that though this Court specifically directed the second respondent to pass necessary orders after issuing notice to the parties concerned, the second respondent failed to issue any notice and failed to conduct any enquiry. It is clear violation of principles of natural justice.

6. Per contra, Mr.T.V.G.Kartheeban, the learned counsel for the fourth respondent submitted that the said Manickam is not the father of the petitioner herein and only to extract money from the fourth respondent, they keep on filing petition after petition. They illegally obtained patta in the name of the said Manickam to extract money.

7. Heard, Mr.Kumaresh Babu, the learned counsel for the petitioner, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 to 3, and Mr.T.V.G.Kartheeban, the learned counsel for the fourth respondent.

8. Admittedly, the second respondent without issuing any notice to the said Manickam or the petitioner who is claiming to be the son of the said Manickam and without conducting any enquiry, passed the impugned order, thereby cancelled the patta stands in the name of the said Manickam in patta Nos.2916 and 1655. It is clear violation of principles of natural justice and the impugned order cannot be sustained as against the petitioner.

9. In view of the above, the impugned order dated 04.03.2017 passed by the second respondent is set aside and the writ petition is allowed. The matter is again remitted back to the second respondent for fresh consideration. The second respondent is directed to issue notice to all the parties concerned

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including the petitioner and the fourth respondent herein and after affording opportunity of hearing, to pass orders on merits and in accordance with law within a period of eight weeks from the date of issuing notice. It is made clear that on receipt of notice, all the parties concerned are at liberty to file relevant documents to prove their title over the property. Insofar as the petitioner is concerned, he is directed to produce the legal heirship certificate to contest the proceedings on behalf of his deceased father. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kancheepuram District,
Kancheepuram

2.The Revenue Divisional Officer,
Tambaram,
Kancheepuram District

3.The Tahsildar,
Sholinganallur Taluk,
Kancheepuram District

+1cc to Mr.Kartheeban, Advocate, S.R.No.45419
+1cc to Mr.Balamurugane, Advocate, S.R.No.45401
+1cc to the Government Pleader, S.R.No.45541

WP.No.11041 of 2017

MG(CO)
CB(09/09/2021)

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