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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13914 of 2017

Lalitha

... Petitioner

-vs-

1. The District Revenue Officer,
Thiruvavoor.
2. The Revenue Divisional Officer,
Mannargudi.
3. The Tasildhar,
Needamangalam Taluk,
Thiruvavoor District.
4. Arasumani

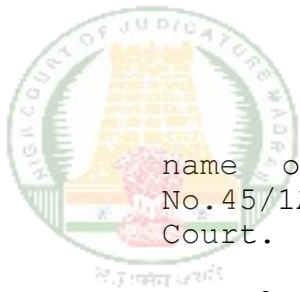
... Respondents

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 1st respondent in connection with the order dated 17.02.2017 in Na.Ka.No.11794/2013/ஆ, 1 and quash the same and consequentially direct the respondents 2 and 3 to restore the patta in the name of the petitioner over the land in S.No.45/1 (New No.45/1A1) measuring 2990 sq.feet in the name of the petitioner herein.

For Petitioner	:	Mr.R.Srinivas
For Respondents	:	Mr.Richardson Wilson,
1 to 3		Government Advocate
For Respondent 4	:	Mr.P.Vadivel - No Appearance

O R D E R

Challenging the order of the first respondent dated 17.02.2017 in Na.Ka.No.11794/2013/ஆ, 1 for a consequential direction to the respondents 2 and 3 to restore the patta in the



name of the petitioner over the land in S.No.45/1 (New No.45/1A1) measuring 2990 sq.feet, the petitioner is before this Court.

2. The petitioner is in possession and enjoyment of the property in S.No.45/1 measuring 2990 sq.feet. He also constructed a building and running a School therein, after obtaining permission from the Director of School Education. The subject property also assessed to property tax. He has also obtained electricity service connection.

3. While being so, the 4th respondent, who is the elder sister of the petitioner filed a suit for declaration of her title and also recovery of possession in respect of the very same property in O.S.No.331 of 1995 on the file of Sub Court, Nagapattinam. The Trial Court found that the 4th respondent has no title over the property and dismissed the suit by Judgment and Decree dated 28.04.1998. Now the 4th respondent filed an appeal in A.S.No.133 of 1998 and the same was also dismissed vide Judgment and Decree dated 26.07.1999 by the District Court, Nagapattinam, as against the same, the 4th respondent has not filed any Second Appeal. However, the 4th respondent once again filed another suit for permanent injunction in respect of the very same property in O.S.No.7 of 2001 on the file of the Sub Court, Tiruvarur and the same was decreed in her favour. Aggrieved by the same, the petitioner filed appeal suit in A.S.No.70 of 2003 on the file of the District Court, Nagapattinam and the same was allowed by the Judgment and Decree dated 30.01.2004. The 4th respondent challenging the same filed the Second Appeal in S.A.No.1082 of 2004 and the same was also dismissed by the Judgment and Decree dated 27.01.2011.

4. Thereafter, the petitioner requested the 3rd respondent herein for mutation of Revenue Records in his favour. However, the 3rd respondent dismissed the same. Therefore, the petitioner filed an appeal before the second respondent and the same was dismissed. Aggrieved by the same, the petitioner preferred a revision before the first respondent of the Civil Courts decrees decreed in favour of the petitioner, which came to be dismissed. As against which, the petitioner is before this Court.

5. On perusal of the impugned order it reveals that the first respondent failed to consider the Judgment and Decree passed in O.S.No.331 of 1995 filed by the 4th respondent for declaration and recovery of possession in respect of the suit property. That apart the 1st respondent stated that the property stands in the name of the 4th respondent and the same was confirmed by the second respondent. Therefore, dismissed the revision.



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6. Since already the 4th respondent filed a suit for declaration and recovery of possession in respect of the subject property, she failed before the Civil Court. Therefore, the petitioner need not go before the Civil Court for declaration of the said property in his favour.

7. In view of the above, the impugned order passed by the 1st respondent is set aside. The matter is remanded back to the 1st respondent for fresh consideration. It is made clear that the 1st respondent is directed to consider the revision filed by the petitioner afresh, in view of the Judgment and Decree passed in O.S.No.331 of 1995 dated 28.04.1998, which was confirmed by the First Appellate Court in A.S.No.133 of 1998 on the file of the District Court, Nagapattinam by the Judgment and Decree dated 26.07.1999 within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. No order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rna

To

1. The District Revenue Officer,
Thiruvareer.
2. The Revenue Divisional Officer,
Mannargudi.
3. The Tasildhar,
Needamangalam Taluk,
Thiruvareer District.

+1CC to the Government Pleader, Sr.No.39779

W.P.No.13914 of 2017

NK (CO)
K.RK. (01.09.2021)