

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.25121 of 2018
and W.M.P.Nos.29192 and 29193 of 2018

1. B.G.Manjula

2. B.Chandravarma

3. B.Samrat

4. Sowmya

.... Petitioners

Petitioners 1 to 4 are represented by its
Power Agent - K.Govindasamy

-Vs-

1. The Tahsildar
Hosur,
Krishnagiri District.

2. R.Ramakrishnan

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent not to conduct any enquiry in relating to patta transfer proceeding in subject matter of the S.No.883/1 and 883/2 of Nallur Village, Hosur Taluk till the disposal of the Suit in O.S.No.60 of 2018 on the file of the Subordinate Judge, Hosur filed by the second respondent as against the petitioner.

For Petitioner : Mr.R.Ezhilarasan

For Respondents: Mr.J.Pothiraj
Special Government Pleader for R1

No Appearance for R2

O R D E R

The prayer sought for in this writ petition is for a writ of mandamus, directing the first respondent not to conduct any enquiry in relating to patta transfer proceeding in subject

matter of the S.No.883/1 and 883/2 of Nallur Village, Hosur Taluk till the disposal of the Suit in O.S.No.60 of 2018 on the file of the Subordinate Judge, Hosur filed by the second respondent as against the petitioner.

2. The case of the petitioner is that, the land in S.No.883, to the extent of 5.41.0 hectare was subdivided under UDR Scheme itself as Sub Division Nos.883/1, 883/2 & 883/3. Suppressing these factors, the second respondent claimed patta for the extent of 5.41 acres, as if, that he purchased the same.

3. However, according to the petitioner, the fact remains that, the said Ramakrishnan sold the portion of the land he purchased on 10.01.2018, by way of sale deed in Document No.323 of 2008, therefore, the second respondent had no right even for a single square feet in S.No.883 at Nallur Village, Hosur Taluk at Krishnagiri District.

4. When that being so, pursuant to the representation given by R2 to issue patta in the name of the second respondent, the first respondent - Tahsildar has issued a communication in August 2018 i.e., signed on 07.09.2018 fixing the date of enquiry on 10.09.2018.

5. However, the said communication was received by the petitioner only on 12.09.2018. Therefore, immediately he rushed to the first respondent office, where, he found that, the first respondent has gone out for field work and therefore, he had given a request to the first respondent office stating the aforesaid position, as indicated above, on 12.09.2018 itself and further, requested in the said representation that, the next date of hearing can be intimated to the petitioner, so that he can appear and put forward his case.

6. Subsequently, it seems that, no enquiry have been conducted. However, in the meanwhile the petitioner has filed the present writ petition with the aforesaid prayer stating that since there has been a suit filed in O.S.No.60 of 2018 on the file of the Subordinate Court, Hosur, which was filed by the second respondent and the same since has been pending, till the disposal of the suit filed by the second respondent, no decision can be taken on his representation, pursuant to which, since the enquiry has been now proposed by the first respondent.

7. Reiterating the aforesaid facts, the learned counsel appearing for the petitioner seeks indulgence of this Court to issue a prohibitory order against the first respondent not to proceed with the enquiry till the disposal of the pending suit in the competent Civil Court.

8. However, Mr.J.Pothiraj, learned Special Government Pleader appearing for the first respondent, on instruction, would submit that, if a representation has been given already by the second respondent to the first respondent with regard to the issuance of patta of the subject land and the said representation since was not considered initially, the second respondent has already approached this Court and filed a writ petition in W.P.No.18561 of 2018, where, this Court, by order dated 23.07.2018 issued a direction to decide the representation of the second respondent. Only pursuant to such direction issued by this Court, the first respondent decided to conduct an enquiry for disposal of the representation given by the second respondent in respect of the patta pertaining to the land in question and accordingly, summons were issued to both parties i.e. petitioner as well as the second respondent. However, on the ground of late reaching of summon, the petitioner did not appear on 10.09.2018, however, on 12.09.2018, he appeared and gave a representation as stated above and based on which, further action is yet to be taken in view of the pendency of the suit, he contended.

9. There is no representation for the second respondent.

10. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Assuming that, if any suit has been filed for whatever relief by the second respondent, unless there is an interim order or prohibitory order prohibiting the Revenue Authorities to act upon, on the representation of the petitioner, the Revenue Authorities cannot be said to be precluded from conducting an enquiry on the representation of the second respondent.

12. Moreover, in this case, the second respondent, after giving representation to the first respondent, had already approached this Court and got an order in W.P.No.18561 of 2018 dated 23.07.2018, pursuant to which only, summons were issued to both the parties to appear for enquiry on 10.09.2018.

13. However, since summons were not reached well before the hearing date, the petitioner could not appear, however he appeared on 12.09.2018, where, he has given the representation stating the following :

"Ref : Summons in Na.Ka.4635/2018/A2,
dated 07.09.2018

You sent summon mentioned in the reference directing me to appear before you on 10.09.2018. But your summon dated 07.09.2018 was served on me only on 12.09.2018 at 11.45 a.m. Immediately I

appeared in person today in your office, but your officials said that you are on outstation not in office. I am always ready to appear before you for making my submissions. Therefore you please inform the next hearing date to me for making my submissions in relating to enquiry about patta issue in Survey No.883 of Nallur Village. The subject matter of the property in Survey No.883 was sub divided in the UDR scheme itself as 883/1, 883/2 and 883/3. The same was suppressed by the said Ramakrishnan. Further the extent of Acres 5.41 cents which was purchased by the said Ramakrishnan was sold on 10.01.2008 by way of sale deed in Doc.No.323 of 2008. Therefore the said Ramakrishnan had no right even single Sq.ft in Survey No.883 of Nallur Village. Therefore please inform next hearing date to me, without giving an opportunity, if any order is passed I will be put to great hardships, the same will not bind me also the same is clear violation of natural justice."

14. In that view of the matter, since the petitioner himself was willing to participate in the enquiry, if the next date of enquiry is duly intimated in advance to the petitioner, the present prayer seeking a prohibitory order against the Revenue officials, i.e., especially the first respondent from proceeding further in the matter does not arise.

15. Therefore, in that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

That there shall be a direction to the first respondent to issue a fresh summon to both the petitioner as well as the second respondent, to conduct an enquiry on the plea raised by the second respondent and the defence taken in this regard by the petitioner as per his representation dated 12.09.2018 and accordingly conduct an enquiry and after completing the enquiry, final order shall be passed by the first respondent with regard to the plea raised by the second respondent pertaining to the patta to be cancelled and to be issued

in the name of the second respondent in Survey No.883 at Nallur Village, as stated above in Krishnagiri District and such final order shall be passed after completing the enquiry, within a period of three months from the date of receipt of a copy of this order.

16. With this direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

tsvn/sgl

To

1.The Tahsildar
Hosur,
Krishnagiri District.

2.The Subordinate Judge,
Hosur.

+1cc to the Government Pleader, S.R.No.26801

W.P.No.25121 of 2018

KJ(CO)
CB(07/07/2021)

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