

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.4478 of 2009
and
MP.Nos.1 & 3 of 2009

D.Duraisrinivasan

...Petitioner

.Vs.

1. The Deputy Tahsildar,
Arakkonam, Vellore District.

2. G.Sivakumar

3. Anniappan

4. K.Subramani

...Respondents

Petitions filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus calling for the records of the first respondent in his proceedings E.No.10(1) Section Revenue Department Vellore District bearing Patta No's. 1129,1127 and 1128 dated 28/02/2009 and quash the same and to direct the first respondent to delete the aforesaid entry made in the names of the respondents 2 to 4 from the record.

For Petitioner : Mr. G.Jermiah

For Respondents : Mr. A.Anandan R1
Government Advocate

O R D E R

This petition has been filed seeking to quash the proceedings passed by the first respondent in his proceedings E.No.10(1) Section Revenue Department, Vellore and to direct the first respondent to delete the aforesaid entry made in the names of the respondents 2 to 4 from the record.

2. The case of the petitioner is that he is the absolute owner of the property to an extent of 7.2 acres of land comprised in S.No.1024/1A extent 2.06, and S.No.1024/1B extent 4.90 acres situate in Pallur Village, Arakkonam Taluk. The lands have been thereafter, sub divided as 1024/1 extent of 2.47 acres, 1024/5 extent of 2.04, 1024/6 extent of 2.48 acres. The Tahsildar, Arakkonam has issued patta No.1241 dated 02.08.2008 in respect of the aforesaid survey numbers in petitioner's name. The above said lands have been purchased by the petitioner under a registered sale deed bearing document No.4696 of 2008 dated 03.07.2008 on the file of the Sub Registrar, Kaveripakkam from the power of attorney. After purchasing the aforesaid property, the petitioner applied to the Tahsildar Arakkonam to mutate the revenue records in respect of the lands, for which, the patta was also issued in favour of the petitioner. Thereafter, the second respondent issued a legal notice claiming the ownership of the property. Thereafter, the petitioner came to know that the first respondent has issued patta Nos.1139, 1127 and 1128 respectively on 28.02.2009 in favour of the respondents 2 to 4 herein. Challenging the same, the present writ petition has been filed seeking to quash the patta issued by the first respondent.

3. The learned counsel for the petitioner submitted that during pendency of this writ petition, the petitioner has filed a suit in O.S.No.42 of 2009 to declare the petitioners title to the suit schedule mentioned property and for a consequential relief from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule mentioned property and to declare that the settlement deed dated 29.12.2008 bearing document No.9999/2008 on the file of the SRO, Kaveripakkam, executed by the first defendant namely Siva Kumar, who is the second respondent herein, is null and void. The said suit was decreed on 30.11.2018 in favour of the petitioner. In view of the subsequent development, the patta has already been granted in favour of the respondents 3 & 4, which has to be set aside and prays to allow the writ petition.

4. Heard, learned counsel for the petitioner, the learned Additional Government Pleader and the learned Standing Counsel and perused the materials available on records. Though notice has been served on the private respondents, no one appeared on behalf them. Considering the pendency of the writ petition, this Court is inclined to dispose of the same based on the merits.

5. The facts of the case are not in dispute. Admittedly, the impugned patta was granted in favour of the private respondents based on the settlement deed. It appears that the settlement deed was declared as null and void by the trial Court vide order dated 30.11.2018. In view of the subsequent development, this court is inclined to grant permission to the petitioner to file appropriate petition/application before the first respondent annexing the decree granted against the private respondents. If such application is filed, the first respondent shall consider the same and pass orders appropriate orders, after affording opportunity to the private respondents, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Rli

To

The Deputy Tahsildar,
Arakkonam,
Vellore District.

+1cc to Government Pleader, S.R.No. 13806

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RN(22/03/2021)
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