



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.660 OF 2010

AND

W.M.P.NO.1 OF 2010

Asia Begum

... Petitioner

Vs.

1. The Principal Secretary and Commissioner
of Land Administration, Chepauk, Chennai.
2. The District Collector, Pudukottai
3. The District Revenue Officer, Pudukottai
4. The Revenue Divisional Officer, Pudukottai
5. The Tahsildar, Kulathur, Pudukottai
6. Tmt Ayesha Beevi
7. Moulana
8. Haji M.A.Habeeb Rahman

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of 1st respondent in proceedings RC.No.K3/2455/09 and dated 04.12.2009 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to restore the order of the 3rd respondent in proceedings Rc.D3/33817/90 and dated 17.09.1990.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.T.Chezhiyan,
Additional Government Pleader



O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari Mandamus calling for the records on the file of 1st respondent dated 04.12.2009 and quash the same and further direct the respondents to restore the order of the 3rd respondent dated 17.09.1990.

2. The case of the petitioner is that the property at Survey Nos.10/3, 11, 14, 15, 11/3, 19/1 were executed as Hiba deed in favour of the petitioner's mother by one Raviyathulbasiriya Bivi, who was sister-in-law of one Oliyappa Rowther, who was the original pattadar of the property and he expired in the year 1973. The consequent property in Survey Nos. 13/1 and 2 were purchased by the petitioner's husband and they were in possession and enjoyment of the property. In the meanwhile, the daughters of one Oliyappa Rowther approached the 5th respondent for grant of patta in their names. As there were rivals claim on the property, the 5th respondent enquired and granted patta in favour of the petitioner's mother and her husband dated 15.05.1989. As against the order of the 5th respondent the respondents 6-8 preferred appeal before the 4th respondent and the same was allowed. Subsequently, the mother and husband of the petitioner preferred an appeal before the 3rd respondent and the same was allowed and the patta was restored in their names in proceedings N.K.T3/33817/90 dated 17.09.1990. Thereafter, the 1st respondent set aside the order of the 3rd respondent dated 17.09.1990 by passing the impugned order dated 04.12.2009 and restored the patta in favour of original pattadar, Oliyappa Rowther. Challenging the said impugned order, this writ petition has been filed.

3. The learned counsel for the petitioner submitted that following the impugned order passed by the 1st respondent, the private respondents filed a suit in O.S.No.75 of 2008 on the file of the learned District Munsif Cum Judicial Magistrate, Keeranur, Trichy and the same was dismissed on 08.10.2010. Hence, there is no legal implement for the petitioner to file a fresh application for issuance of patta in view of the order passed by the civil Court. Hence, this Court shall permit the petitioner to file fresh application before the competent authority in the light of the order passed by the civil Court.

4. The learned Additional Government Pleader appearing for the respondents submitted that this Court without referring the impugned order in the Writ Petition may grant liberty to the petitioner to file fresh application before the concerned authority.



5. Admittedly the 5th respondent has originally granted patta in favour of the petitioner vide order dated 15.05.1989 and the same was set aside by the 4th respondent against which the petitioner preferred appeal before the 3rd respondent and the same was allowed in favour of the petitioner vide order dated 17.09.1990. However, the 1st respondent without referring to any of the above, passed the impugned order suo moto.

6. In view of the above facts, this Court is inclined to permit the petitioner to file fresh application before the concerned authority. If such application is filed, the 5th respondent shall pass appropriate orders on the same without making any reference to the impugned order.

7. Hence, this Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

anu

To

1. The Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai.
2. The District Collector, Pudukottai
3. The District Revenue Officer, Pudukottai
4. The Revenue Divisional Officer, Pudukottai
5. The Tahsildar, Kulathur, Pudukottai

+1cc to M/s.V.Raghavachari, Advocate, S.R.No.8880

+1cc to the Government Pleader, S.R.No.9255

W.P.No.660 of 2010

PMK (CO)

RLP (28/02/2022)