

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.5087 of 2022

Kaliya Perumal		...Petitioner
	Vs	
1	The Tahsildar Jeyankondam Taluk Ariyalur District	
2	The Village Administrative Officer T-Pallur Jeyankondam Taluk Ariyalur District	
3	K.Manoharan Aaripadaiyur Village Kumbakonam Taluk Thanjavur District	...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the records in proceedings bearing No. Oo.Mu.A2/ 7021/2021 pending on the file of the 1st respondent and quash the order bearing No. Oo.Mu.A2/ 7021/2021 passed by the 1st respondent dated 4.02.2022 and consequently direct the 1st and 2nd respondent to restore the patta bearing No. 185 in the name of the petitioner 3rd respondent Elangovan and Senguttuvan jointly for the properties situated at Ulliyakudi Madura Sundreswarapuram village Udaiyarpalayam Taluk Ariyalur District comprised in Survey No. 226/5 to an extent of 83.5 Ares and in S.No. 226/6 to an extent of 10.5 Ares admeasuring to a total area of 2 Acres and 32 Cents as stated above.

For Petitioners : Mr.R.Balachanderan
For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The writ petition has filed by the petitioner seeking to quash the order bearing No. Oo.Mu.A2/ 7021/2021 passed by the 1st respondent dated 4.02.2022 and consequently direct the 1st and 2nd respondent to restore the patta bearing No. 185 in the name of the petitioner, 3rd respondent, Elangovan and

Senguttuvan jointly for the properties situated at Ulliyakudi Madura Sundreswarapuram village, Udaiyarpalayam Taluk, Ariyalur District comprised in Survey No. 226/5 to an extent of 83.5 Ares and in S.No. 226/6 to an extent of 10.5 Ares ad-measuring to a total area of 2 Acres and 32 Cents as stated above.

2. The case of the petitioner is that the petitioner and the third respondents are brothers. The aforesaid properties belong to his father viz., Karuppa Pillai Konar. After demise of their father, the patta stands transferred jointly in the name of the petitioner and the third respondent. In the meantime, the third respondent, using the cancelled settlement deed dated 07.06.2002, filed a suit in O.S.No.379 of 2009 before the District Munsif court, Jayamkondam restraining the petitioner, his son and 2 others from interfering with his alleged possession and enjoyment of the property. On 07.03.2011 the trial Court allowed the suit in favour of the third respondent. Challenging the said order, the petitioner has filed appeal in A.S.No.140 of 2012 and the lower appellate court has allowed the appeal in part. As against the order, the 3rd respondent filed a second appeal before this Court in S.A.No.508 of 2015 and this Court vide order dated 10.10.2018, confirmed the order of the appellate Court in A.S.No.140 of 2012. That being the situation, the 3rd respondent has filed a fresh suit in O.S.No.4 of 2020 before the District Munsif Court, Jayamkondam against the petitioner and 5 others praying for a relief of declaration and permanent injunction and the same is pending.

3. In the meantime, the petitioner made a representation to the first respondent to cancel the patta in favour of the 3rd respondent and re-transfer in the name of the petitioner. Pursuant to which, the impugned order was passed. Challenging the same, the present writ petition has been filed.

4. Heard, the learned counsel for the petitioner, and the Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. The facts of the case are not in dispute. There is a dispute with regard to the afore said property between the petitioner and the third respondent. The 3rd respondent has filed a suit in O.S.No.4 of 2020 on the file of the District Munsif, Jayamkondam and the same is pending for the very same dispute. Suppressing all these facts, the petitioner made a representation to the respondents to cancel the patta, which stands in favour of the 3rd respondent and re-transfer the same

in favour of the petitioner. When the suit is pending with regard to the disputed property, the revenue officials have no power to grant patta in favour of any of the person. Hence, the respondent has rightly rejected the claim of the petitioner.

6. Considering the facts and circumstances of the case and the limited relief sought for by the petitioner, this Court directs the learned District Munsif Judge, Jayamkondam to decide the suit on merits and in accordance with law as expeditiously as possible. After disposal of the suit, the succeeding party shall make a fresh application/petition to the concerned respondents along with the decree passed by the trial Court. After receipt of such application, the respondents shall consider the same and pass appropriate order, after affording opportunity to the necessary parties, based on the decree of the trial Court, on merits and in accordance with law.

7. With the above direction, this writ petitions are disposed of. No order as to costs. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rli

To

1 The Tahsildar
Jeyankondam Taluk Ariyalur District

2 The Village Administrative Officer
T-Pallur Jeyankondam Taluk
Ariyalur District

3. The District Munsif Judge
Jeyankondam, Ariyalur District

+1 CC to The Government Pleader sr 17825.

WP.No.5087 of 2022

SPD(CO)
SP(01/04/2022)