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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29879 of 2012

and

W.M.P.No.1 of 2012

R.Ravi

...Petitioner

Vs.

1. The District Collector,
Kancheepuram District.
2. The District Revenue Officer,
Kancheepuram District.
3. The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram District.
4. The Block Development Officer,
Kundrathur, Padappai.
5. The Head Surveyor,
O/o. The District Collector,
Kancheepuram.
6. The Assistant Director,
Survey and Land records,
Kancheepuram.
7. Krishnaveni Daveed

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records and quash the order passed by the 1st respondent in Rc.No.6298/2012/N3 dated 17.08.2012 and direct the 1st respondent to survey and handover the land in Survey No.21/23 in Neelamangalam Village, Sriperumbudur Taluk, Kancheepuram District add as per Patta No.62 to the petitioner.



For Petitioner

: M/s.S.V.Vijay Prashanth

For Respondents RR1 to 6 : Mr.T.Chezhiyan

Additional Govt. Pleader

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O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the order dated 17.08.2012 passed by the 1st respondent in Rc.No.6298/2012/N3, quash the same and consequently to direct the 1st respondent to survey and handover the land in Survey No.21/23 in Neelamangalam Village, Sriperumbudur Taluk, Kancheepuram District add as per Patta No.62 to the petitioner.

2.The case of the petitioner is that, his father viz., Rangasamy is the absolute owner of the property in Survey No.21/1 part, New No.21/23 in Neelamangalam Village, Sriperumbudur Taluk, Kancheepuram District, as per the Natham Settlement Patta issued by the Sriperumbudur Tahsildar, Natham Settlement, Sriperumbudur on 24.03.1994. While so, the 7th respondent made illegal attempts to grab the said property and to construct a Ration shop. Thereafter, the petitioner's father filed a suit in O.S.No.471 of 2007 and the same was transferred to the Hon'ble District Munsif Court, Sriperumpudur in O.S.No.1082 of 2008 and the said suit was decreed in favour of the petitioner's father vide order dated 04.08.2009. Despite of the said order, the 7th respondent constructed a ration shop in the petitioner's premises. Therefore, the petitioner made a representation dated 16.09.2011 before the 1st and 2nd respondents, however, the same was not considered and no order was passed on the same. Hence, the petitioner filed a Writ petition in W.P.No.25897 of 2011 and this Court vide order dated 19.12.2011, directed the 1st respondent therein to consider the petitioner's representation and pass orders on the same. Pursuant to the order of this Court, the petitioner was called for personal enquiry on 06.08.2012 and the 6th respondent was directed to survey the land and the 6th respondent surveyed the land on 07.08.2012 and on 09.08.2012 and submitted the report. Based on the said report, the 1st respondent rejected the petitioner's representation vide proceedings dated 17.08.2012 in Rc.No.6298/2012/N3, on the ground that the ration shop is constructed in S.No.52/1 and the said land is no way connected with the petitioner's land. Challenging the above said order, the present Writ Petition is filed.

3.The learned counsel appearing for the petitioner submits that, though the 1st respondent vide its impugned proceedings dated 17.08.2012 admitted that the petitioner father was issued



with patta for the above said property in S.No.21/23, suddenly the 1st respondent passing orders stating that, the petitioner was given wrong patta and passing orders to the 2nd respondent to rectify the mistake under Chain Survey Manual Part 2 Rule 17, is not sustainable. He further submitted that, the 4th respondent while providing information under the RTI Act, 2005 to the petitioner's wife viz., Rajam vide proceedings dated 15.02.2008 in N.Ka.No.6440/2007/A2, has clearly stated that the said ration shop was constructed in S.No.21/23. He furthermore submitted that, the 1st respondent stating that the ration shop was constructed in Survey No.52/1, the land which is situated adjacent to the petitioner's land and not in petitioner's land and trying to bifurcate the survey numbers cannot be acceded to. Hence, he submitted that, this Court may quash the impugned order dated 17.08.2012 which was passed by the 1st respondent mechanically without providing sufficient opportunity to the petitioner to ventilate his grievances and hand over the land in Survey No.21/23 in the above said village to the petitioner.

4.The learned Additional Government Pleader appearing on behalf of the respondents submitted that, as per the direction of the 1st respondent, the 6th respondent surveyed the disputed property and on perusal of the report filed by the 6th respondent, it was made clear that the ration shop is not situated in the petitioner's property and it is situated at Survey No.52/1, which is no way connected with the petitioner's property. Since, the issue arises in the present case is a disputed questions of fact, the same cannot be discussed here. Accordingly, he prays for dismissal of the present Writ petition.

5.Heard the arguments advanced on either side.

6.Admittedly, the petitioner claim that he is the owner of the property in Survey No.21/23 and patta was also granted in favour of his father under Natham Settlement Patta which was issued by the Sriperumbudur Tahsildar, Nattham Settlement, Sriperumbudur on 24.03.1994 . However, in view of the submissions made by the Additional Government Pleader, it is alleged that, on surveying the disputed lands, it reveals that the Public Distribution Shop is located in Survey No.52/1 and not in the petitioner's land in Survey No.21/23.

7.In view of above, since the issue arose in the present Writ petition pertains to disputed questions of fact, the same cannot be gone into under Article 226 of the Constitution. Hence, the prayer sought for by the petitioner cannot be acceded to. However, liberty is granted to the petitioner to file appropriate petition before the Competent Civil forum.



8. This Writ Petition is accordingly dismissed with the above said direction. No cost. Consequently, connected Miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

skt

To

1. The District Collector,
Kancheepuram District.
2. The District Revenue Officer,
Kancheepuram District.
3. The Tahsildar,
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4. The Block Development Officer,
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5. The Head Surveyor,
O/o. The District Collector,
Kancheepuram.
6. The Assistant Director,
Survey and Land records,
Kancheepuram.

+1cc to the Special Government Pleader, S.R.No.9042

W.P.No.29879 of 2012
and
W.M.P.No.1 of 2012

SKM(CO)
RGA(08/04/2022)