



W.P.No.32684 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.32684 of 2015

and

M.P.No.1 of 2015 & W.M.P.No.11708 of 2016

N.Krishnamoorthy

... Petitioner

Vs.

- 1.The District Revenue Officer,
Namakkal,
Namakkal District.
- 2.The Special Tahsildar,
Settlement Scheme,
Tiruchengode,
Namakkal District.
- 3.The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
- 4.S.Rajamani (died)
5. M.Sampath
- 6.The Assistant Director of Survey,
Collectorate,
Namakkal.



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7.The Town Surveyor,
Tiruchengode Municipality,
Tiruchengode – 637 211,
Namakkal District.

[R5 to R7 are impleaded as per order dated 14.06.2018
in W.M.P.No.20566 of 2016 in W.P.No.32684 of 2015]

8.Indirani
9.Gnanapritha
10.Kiruthika
11.Sangeetha
12.Muthuraja

[R8 to R12 are substituted as LR's of deceased 4th respondent
vide order dated 11.10.2022 made in W.M.P.No.20318 of 2018
in W.P.No.32684 of 2015 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 05.09.2015 made in Na.Ka.No.20211/2014 (O-1) passed by the 1st respondent in respect of 1139 sq. meter bearing TSLR No.11/2, Patta No.3213, Tiruchengode Town, Namakkal District, quash the same and consequently direct the respondents 1 and 2 not to carry out any change in the mutation entries pending list before the civil court.

For Petitioner	:	Mr.N.Manokaran
For R1 to R3 & R6	:	Mr.T.K.Saravanan
		Government Advocate
For R4	:	No appearance



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ORDER

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This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 05.09.2015 made in Na.Ka.No.20211/2014 (O-1) passed by the 1st respondent in respect of 1139 sq.mtr. bearing TSLR No.11/2, Patta No.3213, Tiruchengode Town, Namakkal District, quash the same and consequently direct respondents 1 and 2 not to carry out any change in the mutation entries pending list before the civil court.

2. The case of the petitioner is that the petitioner is the absolute owner of the property measuring an extent of 1139 sq.mtr., bearing T.S.L.R.No.11/2, Ward F, Block No.2 of Tiruchengode Town. During the town survey proceedings, Patta was issued in the name of petitioner's father, namely R.Natesan for TSLR Nos.10/1, 11, 14 and 15 in Patta Nos.3213 & 3211 in respect of TSLR No.2. Similarly, the fourth respondent's father, namely one M.Semburaj had obtained Patta in respect of the lands situated in old S.F.No.148/1, 2 and 4 corresponding to TSLR Nos.3, 7, 10/2 and 17, vide Patta Nos.2536 and 3213-A. However, the fact remains that neither the fourth respondent nor his father had any right over



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the property bearing TSLR No.11. Infact, the said TSLR No.11 was exclusively in the name of petitioner's father namely, R.Natesan and later the fourth respondent's father had managed to include his name as co-pattadar in Old No.151 corresponding to new Patta No.3213 relating to TSLR No.11 without any notice to the petitioner. Immediately, after the retirement of the petitioner's father, he intended to improve his land, while so, the fourth respondent came and objected the right over TSLR No.11, as if he has right over the same in view of the inclusion of his name as co-pattadar. Therefore, the petitioner made a representation dated 02.03.2012 before the second respondent, seeking to correct the error made in the Revenue Records. However, the said representation had evoked no response from the second respondent. Again, the petitioner made another representation dated 28.03.2012 to the Assistant Settlement Officer, Survey Department, Chepauk, Chennai to carry out necessary corrections in the Revenue Records relating to TSLR No.11 in his exclusive name. The Assistant Settlement Officer issued communication dated 09.04.2012 to the second respondent to conduct an enquiry by considering the petitioner's representation dated 28.03.2012 and to take decision on merits, pursuant to which, the second respondent vide proceedings dated



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20.04.2012 issued a separate Patta No.3213 for an extent of 1139 sq.mtr., bearing TSLR No.11/2 in petitioner's name and also made a sub-division in respect of 231 sq.mtr., bearing TSLR No.11/1 in the name of all the parties concerned and issued separate Patta No.7024. Accordingly, the second respondent granted separate Patta No.3213 for TSLR No.11/2 in petitioner's name on 20.04.2012 and issued Patta No.7024 for TSLR No.11/1 classifying the same as "Boosthathi Pathai". Thereafter, the fourth respondent committed criminal trespass into the petitioner's land in TSLR No.11/2 in his absence on 24.04.2012. The petitioner filed a Suit in O.S.No.185 of 2012 on the file of learned District Munsif Court, Tiruchengode for permanent injunction against the fourth respondent. The grievance of the petitioner is that the fourth respondent obtained Patta for TSLR No.11/2 in his name by taking advantage of his influence over the Revenue Authorities. Therefore, the petitioner also filed another Suit in O.S.No.211 of 2012 on the file of learned District Munsif Court, Tiruchengode against the respondents for declaration of title and for consequential permanent injunction restraining the official defendants therein from making any change or alteration in the Revenue Records to include the name of the fourth respondent. Subsequently, after



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adjudication before the different authorities, the first respondent/District Revenue Officer restored the Patta in the name of the petitioner as well as the fourth respondent and directed the petitioner to work out his remedies before the Civil Court vide impugned order dated 05.09.2015 by cancelling the patta transfer order passed by the second respondent in respect of 1370 sq.mtr., bearing TSLR No.11. Challenging the same, the petitioner had filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that admittedly, the fourth respondent's father has no right over the property in TSLR No.11. However, in the year 1990, during the Town Survey proceedings, the fourth respondent's father's have inadvertently included as co-pattadar in petitioner's land and the same was adjudicated in the year 2012, and the second respondent had rectified the error made in the Revenue Records. However, without appreciating the above facts, the first respondent/District Revenue Officer has interfered with the order passed by the original authorities, which is not sustainable. Accordingly, he prayed for passing appropriate orders.

4. Though notice was served to the private respondents, none



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appeared on behalf of the private respondents before this Court today.

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5. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

6. The petitioner claims that he has exclusive right over the property in TSLR No.11/2, which is disputed in the present Writ Petition. It is the admitted case of the petitioner that separate Patta was granted in favour of his father but during the town survey proceedings, the fourth respondent's father included his name in TSLR No.11/2 along with petitioner's father name, which was later adjudicated by the second respondent resulting in issuance of separate patta in favour of the petitioner, which was modified by the first respondent/District Revenue Officer. However, it is also admitted by the petitioner that he has filed two suits before the learned District Munsif Court, Tiruchengode in O.S.Nos.185 & 211 of 2012 for permanent injunction and the suit for declaration. Such being the admitted stand of the petitioner, when the Suits are pending before the Competent Civil Court, rendering any opinion



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by this Court will adversely affect the interest of the petitioner as well as the fourth respondent. In such view of the matter, this Court without expressing any opinion on the merits of the case and on considering the above said facts and circumstances, the issue of title is pending adjudication before the Civil Court at the instance of the petitioner, is not inclined to interfere with the impugned order under challenge. It would suffice, if the learned District Munsif Court, Tiruchengode is directed to decide the issue between the petitioner as well the fourth respondent.

7. Accordingly, this Writ Petition is dismissed with a direction to the learned District Munsif Court, Tiruchengode to decide the Suits in O.S.Nos.185 & 211 of 2012 as expeditiously as possible without in any way being influenced by any observations made in the impugned order. Subject to the result of the Suits, the petitioner and the fourth respondent shall work out their remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

10.11.2022

Index: Yes/No
Speaking Order : Yes/ No
jd



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To

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M.DHANDAPANI, J.

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