

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.3338 & 3339 of 2015

M.P.Nos.1 & 1 of 2015

T.Periyasami Pillai

... Petitioner
in both W.Ps

Vs.

1.The District Collector,
Namakkal.

2.The Revenue Divisional Officer,
Namakkal.

3.The Tahsildar,
Namakkal.

... Respondents in all W.Ps

Prayer in W.P.No.3338 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the second respondent in Roc.4066-2014(A6) and to quash the order dated 15.09.2014 made therein.

Prayer in W.P.No.3339 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent in Roc.26251/2012/B3 and to quash the order dated 05.08.2013 made therein and consequently to direct the respondents to issue patta to the petitioner for his lands viz.15,180 Sq.ft in Survey Number 370/A1B1, 6 Cents in Survey Number 370/A1B2 and 38 Cents in Survey Number 370/A1B7, Valayapatti Village, Namakkal Taluk.

For petitioner : Mr.T.M.Hariharan (in both W.Ps)

For Respondents : Mr.R.P.Murugan Raja
Government Advocate (in both W.Ps)

COMMON ORDER

The petitioner has filed these petitions to issue a Writ of Certiorari, calling for the records of the second respondent in Roc.4066-2014(A6) and to quash the order dated 15.09.2014 made therein, and to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent in Roc.26251/2012/B3 and to quash the order dated 05.08.2013 made therein and consequently to direct the respondents to issue patta to the petitioner for his lands viz.15,180 Sq.ft in Survey Number 370/A1B1, 6 Cents in Survey Number 370/A1B2 and 38 Cents in Survey Number 370/A1B7, Valayapatti Village, Namakkal Taluk.

2. Mr.R.P.Murugan Raja, learned Government Advocate takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner's mother is the owner of the properties comprised in S.Nos. 370/A1B1, measuring 15180 Sq.ft, in S.No.370/A1B2, measuring 6 cents, in S.No.370/A1B7 measuring 38 cents, situated at Valayapatti Village, Namakkal Taluk. However, the second respondent attempted to interfere with the possession and enjoyment of the properties of petitioner's mother. Hence, the petitioner's mother filed a suit in O.S.No.1131 of 1988 on the file of the Principal District Munsif Court, Namakkal, for declaration of her title to the above said properties and for Permanent Injunction, and the said suit was dismissed on 24.09.1992, as against which the petitioner's mother filed first appeal in A.S.No.97 of 1992 on the file of the Sub Court, Namakkal, and the same was also dismissed by confirming the decree passed by the lower Court, against which the petitioner's mother filed a second appeal before this Court in S.A.No.1487 of 1994. During the pendency of the said appeal, petitioner's mother passed away and the petitioner was impleaded to represent the estate of the petitioner's mother. Accordingly, he impleaded in C.M.P.No.68 of 2004 vide order dated 14.09.2005. Thereafter, the Decree passed by the lower Appellate Court was set aside and the Decree granted in favour of the petitioner vide decree dated 17.03.2006. Based on the Decree, the petitioner made a representation for issuance of Patta before the second respondent. However, the second respondent dismissed the petitioner's application. Challenging the same, present Writ Petition has been filed by the petitioner for the above relief.

4. The learned counsel appearing the petitioner submitted that the entire claim made by the petitioner before the Revenue Authorities based on the title, the title was conferred by this Court in S.A.No.1487 of 1994, and the Revenue Authorities have no other option to issue Patta in favour of the petitioner. Hence, the rejection of the Patta is not sustainable.

5.This Court perused the Civil Court Decree and application made by the petitioner dated 01.04.2014. However, there was a conclusion in respect of the decree and claim made by the petitioner, which cannot be decided by this Court in Article 226 of the Constitution of India.

6. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, liberty is granted to the petitioner to prefer revision in terms of Section.13 of the Patta Passbook Act before the District Revenue Officer, if revision is filed District Revenue Officer is directed to pass appropriate orders, and the petitioner is entitled to canvas all the points before the revision authority. The period of pendency of the present writ petition before this Court is excluded for the purpose of limitation before the District Revenue Officer.

8. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

tri/skt
To

- 1.The District Collector,
Namakkal.
- 2.The Revenue Divisional Officer,
Namakkal.

3.The Tahsildar,
Namakkal.

+2 Ccs to Mr.T.M.Hariharan, Advocate sr 19212, 19211
+1 CC to The Government Pleader sr 19185.

W.P.Nos.3338 & 3339 of 2015
M.P.Nos.1 & 1 of 2015

MT (CO)
SP (20/04/2022)