IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.32398 OF 2013
AND
W.M.P.NO.1 OF 2013

E.Venkatesan

... Petitioner

Vs.

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2. The Revenue Divisional Officer,
Thiruvannamalai Division,
Thiruvannamalai.

3. The Tahsildar,
Kalasapakkam Taluk,
Thiruvannamalai District,

4. The Block Development Officer,
Kalasapakkam Panchayat Union,
Kalasapakkam,
Thiruvannamalai District.

5. M.Kumar
6. A.Packiaraj
7. P.Elumalai
8. L.Kannan
9. K.Pachaiyappan
10. J.Kumar
11. J.Sivasankar
12. K.Mani
13. M.Murugan
14. K.Bhoopathi
15. S.Harikrishnan
16. A.Sureshkumar
17. S.Mannar
18. Munikannu
19. M.Manickam

20. Pachaiyappan
21. R.Ramachandran

... Respondents

(Respondents 5-21 impleaded vide dated 03.08.2015 in MP.No.1 of 2015 in W.P.No.32398 of 2013.)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st respondent in connection with the impugned order passed him in No.Aa4/37097/2013 dated 11.11.2013, quash the same and further direct the respondent not to make any correction in the Revenue Records.

For Petitioner	:	Mr.S.Karthikeyan for M/s.Royan Law Associates
For Respondents R1 to R4	:	Mr.M.Murali Government Advocate
For Respondents R5 to R21	:	M/s.S.Thirumavalavan

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 impugned proceedings of the 1st respondent in No.Aa4/37097/2013 dated 11.11.2013, quash the same and to direct the respondent not to make any correction in the Revenue Records.

2. The case of the petitioner is that, the petitioner's father, viz., Elumalai, was the owner of the property comprised in S.No.983/1C3, measuring an extent of 51 cents situated at Pattiyanthal Village, Kalasapakkam Taluk and the same was allotted to him vide registered partition Deed dated 21.01.1989 entered between the petitioner's father, his brothers viz., Vadamalai and Thirumalai and his mother. After the demise of the petitioner's father, the petitioner, his brother and his mother were in possession of the said property and the Revenue Records were also mutated in their favour in Patta No.1667. Whileso, a portion of the above said land measuring an extent of 3 Cents was encroached by one Murugan, thereby, the petitioner and his family members filed a suit in O.S.No.12 of 2012 as against the said Murugan and the same is pending. While such being the case, the 3rd and 4th respondents accompanied by the Special Tahsildar, The Additional Divisional Engineer, Chengam and the Village Administrative Officer came to the petitioner's property and

attempted to measure the petitioner's land for forming a new road, without following due process of law. Though the petitioner made an objection for the formation of a new road, as already there exists a cement road to reach the colony, however the same was not considered by the 3rd respondent.

3. Aggrieved by the same, the petitioner filed a suit in O.S.No.218 of 2012 for permanent injunction as against the revenue officials and the petitioner's family filed an interim injunction in I.A.No.692 of 2012 as against the Revenue Officials, however, the same was dismissed on 26.06.2013, on the ground that, the 1st and 3rd respondent filed a counter stating that, the petitioner's property was not selected for formation of new road and the said property is only under consideration for formation of new road. Taking advantage of the dismissal of the interim injunction, the Revenue Divisional Officer initiated proceedings under Section 145 of Cr.P.C and thereafter the petitioner and his mother appeared before the the District Revenue Officer on 25.10.2013 and the District revenue Officer, taking advantage of the innocence of the petitioner's mother, obtained her signature without disclosing the contents. While the Revenue Divisional Officer simply directed the petitioner to appear for enquiry on different dates and when the proceedings under Section 145 of Cr.P.C is not even completed, the 1st respondent has passed the present impugned order dated 11.11.2013, directing the 3rd respondent to reclassify the petitioner's patta land to an extent of 3 cents as Porombokke for formation of new road, which is contrary to the counter filed by them in the I.A.No.692 of 2012. Hence, challenging the same, the present Writ petition is filed.

4. The learned counsel for the petitioner submitted that, already the petitioner's family has filed suit as against the said Murugan in O.S.No.12 of 2012, as he has illegally encroached 3 cents of the petitioner's patta land and the same is pending and further, as the revenue officials tried to interfere with the petitioner's property, the petitioner and his family members filed a suit in O.S.No.218 of 2012 as against the revenue officials and the same is pending. He further submitted that, the petitioner has also obtained an interim stay as against the revenue officials vide order dated 29.11.2013 in MP.No.2 of 2013. He furthermore submitted that, though the petitioner's family have obtained patta in their favour and that the suits were pending in respect of the very same 3 cents of petitioner family's patta land, issuing the impugned order, directing the 3rd respondent to reclassify the petitioner's patta land to an extent of 3 cents as Natham Porombokke for formation of new road is not sustainable. Hence, he prayed for appropriate orders.

5. The learned Government Advocate appearing on behalf of the official respondents submitted that, though the petitioner has filed a suit in O.S.No.218/12 as against the revenue officials, the interim injunction in I.A.No.692 of 2012 in OS.No.218 of 2012 filed by the petitioner and his family members was dismissed on 26.06.2013. He further submitted that, though the petitioner claim that, he has obtained an interim stay vide order dated 29.11.2013 in MP.No.2 of 2013, subsequently, the private respondents have filed a Vacate Stay petition in MP.No.2 of 2015 and the interim stay granted by this Court was vacatted on 22.09.2017. Therefore, in the absence of any restraint order as against the revenue officials, and also as per the Document No.1145/1975, as the petitioner's grandfather bought only 48 cents out of 51 cents, the revenue records were wrongly mutated for 51 cents in favour of the petitioner's family and, therefore the respondents cannot be prevented from passing any orders and addressing the said impugned order as illegal is not sustainable. However, he fairly submitted that, the impugned order is subject to the result of the pending suit. Hence, he prayed for dismissal of the present Writ petition.

6. Though the petitioner claim that the petitioner's family was granted patta in their favour in respect of the disputed property, however, the law is already settled that, patta does not confer tittle and the petitioner has to establish appropriate title in his favour in order to prove his ownership over the property. Unless the petitioner has obtained any decree or title in his favour, he is not the absolute owner of the said property.

7. In the present case, no title deed was established by the petitioner in his favour, and that though he claim that he filed a suit in O.S.No.218/12 and he has also obtained interim stay, however, the same was vacated by this Court on 22.09.2017. Further, the interim injunction in I.A.No.692 of 2012 filed by the petitioner family as against the Revenue Officials was dismissed on 26.06.2013. In view of the above, on the date of passing of impugned order, as there was no restraint order as against the official respondents, preventing the revenue officials to pass orders and challenging the impugned order dated 11.11.2013 passed by the 1st respondent is not sustainable. However, needless to stated that the said impugned order is subject to the result of the pending suit in O.S.No.218 of 2012.

8. Accordingly, this Writ Petition is disposed of and if the petitioner succeeds in the said suit, the petitioner is at liberty to file a fresh application before the revenue officials for appropriate orders. On receipt of such application, the revenue officials are directed to consider the same on merits

and pass orders in accordance with law. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

skt

To

1. The District Collector,
   Thiruvannamalai District,
   Thiruvannamalai.

2. The Revenue Divisional Officer,
   Thiruvannamalai Division,
   Thiruvannamalai.

3. The Tahsildar,
   Kalasapakkam Taluk,
   Thiruvannamalai District,

4. The Block Development Officer,
   Kalasapakkam Panchayat Union,
   Kalasapakkam,
   Thiruvannamalai District.

+1cc to M/s.K.V.Sajeev Kumar, Advocate, S.R.No.18081

+1cc to M/s.S.Thirumavalavan, Advocate, S.R.No.17827

+1cc to the Government Pleader, S.R.No.18153

W.P.No.32398 of 2013
and
M.P.No.1 of 2013

RR(CO)
RLP(19/04/2022)