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W.P.Nos.4264 & 4265 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition Nos.4264 & 4265 of 2013

W.P.No.4264 of 2013:

M.Vasantha

... Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.District Revenue Officer,
Kanchipuram.

3.Revenue Divisional Officer,
Chengalpattu.

4.Tahsildar,
Chengalpattu.

5.Rajendrakumar Asara

6.Sivakumar Asara

7.Brige Mohan Asara

8.M/s.Asara Finance Corporation &
Asara Investment Corporation

Rep. by its Managing Director

Ashokkumar Asara

(Respondents 5 to 8 rep. by their power agent M.L.Asara)



W.P.Nos.4264 & 4265 of 2013

9.V.Thirunavukarasu

10.M.Rajendran

... Respondents

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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings No.Na.Ka.23254/09/N4 dated 23.01.2012 and proceedings of the third respondent Pa.Mu.144/2006/T dated 24.01.2006 and quash the same and consequently direct the second respondent to restore the patta with respect to T.S.No.1418/1B and also in 1418/1A1 54/2A for an extent of 1650 sqft. Situated in the 4th ward Natham Village 'B' Block, Chengalpattu Town, Chengalpattu Division, Chengalpattu Sub-Registrar No.2, Chengalpattu Registered District, at Kanchipuram District as per approval of the DTCP No.1038/93 layout in the name and style of “SriNath J.C.K.Nagar” Plot No.168 in favour of the petitioner.

W.P.No.4265 of 2013:

Syed Ahamed

... Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.District Revenue Officer,
Kanchipuram.

3.Revenue Divisional Officer,
Chengalpattu.



W.P.Nos.4264 & 4265 of 2013

4.Tahsildar,
Chengalpattu.
5.Rajendrakumar Asara

6.Sivakumar Asara

7.Brige Mohan Asara

8.M/s.Asara Finance Corporation &
Asara Investment Corporation
Rep. by its Managing Director
Ashokkumar Asara

(Respondents 5 to 8 rep. by their power agent M.L.Asara)

9.V.Thirunavukarasu

10.M.Rajendran

11.G.Selvam

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings No.Na.Ka.23254/09/N4 dated 23.01.2012 and proceedings of the third respondent Pa.Mu.144/2006/T dated 24.01.2006 and quash the same and consequently direct the second respondent to restore the patta with respect to T.S.No.1418/1B and also in 1418/1A1 54/2A for an extent of 1650 sqft. Situated in the 4th ward Natham Village 'B' Block, Chengalpattu Town, Chengalpattu Division, Chengalpattu Sub-Registrar No.2, Chengalpattu Registered District, at Kanchipuram District as per approval of the DTCP No.1038/93 layout in the name and style of "SriNath J.C.K.Nagar" Plot No.168 in favour of the petitioner.

For Petitioner : Mr.A.P.Rajaprabhu



W.P.Nos.4264 & 4265 of 2013

in both W.Ps

WEB COPY

For Respondents 1 to 4 : Mr.V.Manoharan,
in both W.Ps Additional Government Pleader

For Respondent 9 : Mr.A.S.Narasimhan
in both W.Ps

For Respondent 10 : Mr.R.Dinesh Kumar
in both W.Ps

COMMON ORDER

Since the issue involved in these writ petitions being one and the same, all the petitions are taken up for final disposal by way of a common order.

2. The above writ petitions have been filed challenging the impugned proceeding dated 23.01.2012 which was passed by the second respondent and another proceeding dated 24.01.2006, passed by the third respondent and to direct the second respondent to restore the patta with to T.S.No.1418/1B and also in 1418/1A1 54/2A for an extent of 1650 sq.ft., situated in 4th ward Natham Village 'B' Block, Chengalpattu Town, Chengalpattu Division, Chengalpattu Sub-Registrar No.2, Chengalpattu Registered District, at Kanchipuram District as per approval of the DTCP No.1038/93 layout in the name and style of "SriNath J.C.K.Nagar" Plot No.168 in favour of the



individual petitioner.

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3. The case of the petitioner in W.P.No.4264 of 2012 is that the petitioner has purchased a residential land from respondents 5 to 8 to an extent of 1650 sqft., vide registered sale deed Doc.No.1462 of 1996 dated 09.05.1996. Subsequent to the purchase of the same, she was issued with a patta bearing No.228 and joint patta No.231 by the revenue authorities. This being the case, on 25.04.2005, the ninth respondent trespassed into the property of the petitioner and erected fence in the subject property. Hence, the petitioner lodged a complaint before the Chengalpattu Police Station, however, in the year 2006, again the ninth respondent trespassed into the petitioner's property and once again the petitioner lodged a complaint against the ninth respondent. During the police enquiry, the ninth respondent produced an order purported to have been passed by the third respondent's in his proceeding No.Pa.Mu.No.144-2006 dated 24.01.2006, whereunder the third respondent has directed to issue patta in favour of the ninth respondent. Aggrieved over the same, the petitioner preferred an appeal before the second respondent, without any proper enquiry, the second respondent issued a proceeding in Na.Ka.23254/09/N4 dated 23.01.2012 by directing the parties



concerned to approach the competent civil court. Challenging the same, the petitioner filed this writ petition in W.P.No.4264 of 2013 with the aforesaid prayer.

4. The case of the petitioner in W.P.No.4265 of 2012 is that the petitioner has purchased a residential land from respondents 5 to 8 to an extent of 1650 sqft., vide registered sale deed Doc.No.1464 of 1996 dated 09.05.1996. Subsequent to the purchase of the same, he was issued with a patta bearing No.228 by the revenue authorities. This being the case, on 25.04.2005, the ninth respondent trespassed into the property of the petitioner and erected fence in the subject property. Hence, the petitioner lodged a complaint before the Chengalpattu Police Station, however, in the year 2006, again the ninth respondent trespassed into the petitioner's property and once again the petitioner lodged a complaint against the ninth respondent. During the police enquiry, the ninth respondent produced an order purported to have been passed by the third respondent's in his proceeding No.Pa.Mu.No.144-2006 dated 24.01.2006, whereunder the third respondent has directed to issue patta in favour of the ninth respondent. Aggrieved over



the same, the petitioner preferred an appeal in Appeal No.4129 of 2009, before the second respondent, without any proper enquiry, the second respondent issued a proceeding in Na.Ka.23254/09/N4 dated 23.01.2012 by directing the parties concerned to approach the competent civil court. Challenging the same, the petitioner filed this writ petition in W.P.No.4265 of 2013 with the aforesaid prayer.

5. Learned counsel for the petitioners would submit that the second respondent has failed to note that without impleading and giving an opportunity to the petitioner, the third respondent canceled the petitioner's valid patta and issued illegal patta to the ninth respondent particularly with respect of T.S.No.1418/1B for an extent of 1650 sqf., the subject matter of the writ petition and thus, the impugned order passed by the second respondent is no sustainable. Accordingly, he prayed for allowing this writ petition.

6. Learned counsel appearing for the ninth respondent submitted that it is purely a property dispute between the petitioners and the private respondents and it has to be decided only before the Competent Civil Court and without exhausting the same, the petitioner has filed this writ petition, which is unsustainable one. Accordingly, he prayed for allowing this writ



W.P.Nos.4264 & 4265 of 2013

petition.

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7. Heard the learned counsel on either side and perused the materials placed on record.

8. As rightly pointed out by the learned counsel appearing for the ninth respondent that the issue arises in this writ petition cannot be decided by this Court, since it is a property dispute between the petitioners and the private respondents. Hence, the same has to be decided only before the Competent Civil Court. Therefore, the prayer sought in this writ petition cannot be entertained.

9. Accordingly, this writ petition stands dismissed with a liberty to the petitioners to approach the Competent Civil Court. If any such filing is made, the Competent Civil Court is directed to decide the issue in between the parties, without being influenced by any of the observation made in the impugned orders. No costs.

14.09.2022



W.P.Nos.4264 & 4265 of 2013

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Index : Yes/No

Speaking Order : Yes/No

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W.P.Nos.4264 & 4265 of 2013

M.DHANDAPANI,J.

vm

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WEB COPY



W.P.Nos.4264 & 4265 of 2013

14.09.2022