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WP No. 12401 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 12401 of 2022
and W.MP. Nos. 11861 of 2022

1.K.Devadhasan
2.Francisal
Petitioners

..

Versus

1.The District Collector of Chennai
Land and Revenue
Singaravellur Maligai
North Beach Road
Chennai – 600 001

2.The District Revenue Officer
Land and Revenue
Singaravellur Maligai
North Beach Road
Chennai – 600 001

3.The Tahsildar
Velachery Taluk
Velachery, Chennai – 600 113

.. 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 of the respondents, especially the 1st respondent relating to his proceedings made in J2/23760/2015 dated 14.06.2019 and quash the same as null and void, illegal and invalid and consequently direct the 2nd respondent to



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order for survey the property situated at western said of Mujeebur Rahman's Property i.e., Survey No.317/1A 2A, 317/1A2A1A1A1 which mentioned in the letter issued by the 3rd respondent to Inspector of Police, Velachery in Letter No.A2/5542/2009 and issue the patta in favour of the 2nd petitioner in accordance with law.

For Petitioners : Mr.S.Prem Raj Kumar
For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The writ petition has been filed seeking to quash the proceedings in J2/23760/2015 dated 14.06.2019 by the first respondent and consequently direct the 2nd respondent to order for survey the property situated at western said of Mujeebur Rahman's Property i.e., Survey No.317/1A 2A, 317/1A2A1A1A1 which mentioned in the letter issued by the 3rd respondent to Inspector of Police, Velachery in Letter No.A2/5542/2009 and issue the patta in favour of the 2nd petitioner in accordance with law.

2. The case of the petitioners is that the petitioner's father purchased a property in S.No.332/10 measuring to an extent of 2090 sq.ft. from one K.Arumugam on 09.07.1991. In the year 2005, one Murugesu Mudhaliar had attempted to encroached the petitioner's property. Therefore, the petitioner filed a suit in O.S.No.7817 of 2005 against one Murugesu Mudhaliar and others before the XIV Assistant City Civil Court, Chennai. The Civil court granted



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decree in favour of the petitioner and however, directed to survey the property.

Challenging the same, the petitioner preferred appeal in A.S.No.45/2008 and the same was dismissed. In the meanwhile, one Siddique alias Abubacker and Mujubeer Rahman interfered with the petitioner's possession. Hence, the petitioner made a police complaint and the said Siddque and another have also lodged a counter complaint before the Inspect of Police (L & O) J7, Velacherry Police Station. The Inspector of Police sent a letter to the Tahsildar for clarification of the property. In the said circumstances, on 02.03.2009, the above said property has been surveyed in front of the Police personnel and issued a report stating that the said property comes under the S.No.317/1A2A, 317/1A2A1A1A1 and the same is belonged to one Mujubeer Rahman and further, the petitioner's property comes under S.No.332/5B at the western side of survey No.317 which is western side of Mujubeer Rahman's property.

3. Under these circumstances, the petitioner filed a suit against Mujubeer Rahman in O.S.No.2428 of 2009. Based on the request made by the petitioner, the authorities instructed him that there is a mistake in sub division as per the records of his property and directed to carry out the correction in S.No.332/10 instead of 332/123-5B, for which, the petitioner made a representation to the 3rd respondent on 20.01.2015 and the same was rejected, Hence, the petitioner



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filed appeal before the respondents 1 & 2 and the same was not considered.

Therefore, the petitioner has filed a writ petition before this Court in W.P.no.40217 of 2016, by order dated 16.11.2016 this Court disposed of the petition with a direction. Pursuant to which, the first respondent has passed the impugned proceedings and rejected the petitioner's claim. Challenging the said proceeding, the present petition has been filed before this Court seeking to quash the same and appropriate remedy.

4. The learned counsel for the petitioner submitted that the petitioner obtained permanent injunction in O.S.No.7817 of 2005 for the above said property. For the very same property, one Mujeebur Rahman came to encroach. without verifying the documents, the first respondent rejected the claim made by the petitioner. However, this Court, while passing the order in W.P.no.40217 of 2016, directed the second respondent to pass orders. On the contrary to the direction issued by this Court, the first respondent himself passed the order. Hence, the learned counsel seeks to quash the proceedings and allow the writ petition.

5. The learned Special Government Pleader did not dispute the submission made by the petitioner that the second respondent has to pass



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orders in the appeal.

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6. Heard, the learned counsel for the petitioner, the learned Special Government Pleader appearing on behalf of the Government and perused the materials available on record.

7. On perusal of the order, it is clearly seen that this court issued a direction to the second respondent to dispose of the appeal. Considering the facts and circumstances of the case and the submission made on either side, this Court sets-aside the impugned order passed by the first respondent dated 14.06.2019 and remands the appeal back to the second respondent for fresh enquiry and disposal. Thereafter, the second respondent shall pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

M. DHANDAPANI, J.



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