

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.12310 of 2022

and

WMP.Nos.11763, 11765 & 11766 of 2022

Kandasamy

...Petitioner

Vs

1. The Thasildar,
Attur Taluk, Attur Taluk and Post, Salem District.

2. The District Collector,
Office of the Collector, District Collectorate,
Salem District, Salem-1.

3. The President,
Panchayat Board Office,
Malliakarai Village and Post,
Attur Taluk & District.

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records culminating issuance of the impugned Memorandum dated 12.04.2022 issued by the first respondent, to carry out survey & sub-Division of the petitioner's patta lands of extent of 3.09 Acres in old survey No.456, preset survey No.181 of Malliakarai Village and quash the same and direct the official respondents to abide by the decree dated 20.03.2012 in O.S.No.138/2020, on the file of the District Munsif, Attur and effect mutation of revenue records including UDR patta in accordance with the above-mentioned decree dated 20.03.2012.

For Petitioner : Mr. K.Shakespeare

For Respondents : Mr. R.Vigneswaran, GA, RR1 & 2
Mr.C.Sathish,R3

ORDER

This writ petition is filed seeking to quash the impugned Memorandum dated 12.04.2022 issued by the first respondent and consequently, direct the official respondents to abide by the decree dated 20.03.2012 in O.S.No.138/2020, on the file of the District Munsif, Attur and effect mutation of revenue records including UDR patta.

2. The case of the petitioner is that the petitioner is the owner of the land to an extent of 3.09 Acres in Old S.No.456, present survey No.181 of Mallakarai Village, without notice to the petitioner, was sub divided into S.Nos.181/1 & 181/2. Therefore, the petitioner made a representation to the first respondent to correct the revenue records and there is no response from the respondent. Hence, the petitioner has filed a suit in O.S.No.233/2010 against the respondents herein on the file of the learned District Munsif, Attur for a declaration that the said sub-division as null and void and consequential to restore it as a single survey unit. The said suit was decreed with costs on 20.03.2012.

3. On 24.10.2017, the Sub-Collector, Attur issued a memorandum to the first respondent admitting the decree passed in O.S.No.233/2010 and to submit a report. But there was no further action. Hence, on 19.08.2018, the petitioner issued a legal notice and representation calling upon the first respondent to carry out mutation of records as per court decree. Since there was no action on the part of the first respondent, the petitioner filed an execution petition on 02.01.2019 against the respondents for execution of the decree dated 20.03.2012, which was taken on record as R.E.P.No.1 of 2020 by the learned District Munsif, Attur. The respondents instead of abiding by the decree in O.S.No.233/2010, Which has become final, are attempting to overreach the decree, for which, the petitioner again issued a notice on 21.03.2022 to the first respondent to act as per the decree dated 20.03.2012. Pursuant to which, the first respondent passed the impugned order dated 12.04.2022 calling upon the petitioner to attend enquiry on 27.04.2022 and to submit records. Challenging the same, the present writ petition has been filed the present writ petition before this Court seeking appropriate remedy.

4. The learned counsel for the petitioner submitted that as per the judgment of the suit in O.S.No.233/2010 on the file of the District Munsif, Attur Taluk, Salem District, the respondents have to merge the mutated revenue records. Instead of doing that, the respondents instructed the petitioner to attend enquiry. The learned counsel on instructions prays that

this Court may permit the petitioner to participate the enquiry proceedings conducted by the first respondent.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. Considering the limited request made by the learned counsel for the petitioner, this Court permits him to participate the enquiry proceedings conducted by the first respondent and produce all the relevant document to substantiate his claim.

7. With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rli

To

1. The Thasildar,
Attur Taluk, Attur Taluk and Post,
Salem District.
2. The District Collector,
Office of the Collector,
District Collectorate,
Salem District, Salem-1.
3. The President,
Panchayat Board Office,
Malliakarai Village and Post,
Attur Taluk & District.

+1cc to Mr. K.Shakespeare, Advocate, S.R.No.32321
+1cc to the Government Pleader, S.R.No.33064

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PL[co]

NSK/13/07/2022