

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.32625 of 2016
and
W.M.P.No.28268 of 2016

Mr.P.S.Janardhana Achari . . . Petitioner

Vs.

1. The District Collector,
Kanchipuram District,
Kanchipuram.
2. The Tahsildar,
Cheyyur Taluk Office,
Cheyyur, Kanchipuram District.
3. Eswar Achari,
4. Sekar Achari (Deceased)
5. P. Latha Devi,
6. P. Varsha Sree,
7. Srinivas (Minor)

. . . Respondents

(R5 to R7 substituted as LR's of deceased
4th respondent vide order dated 13.04.2022 made in
W.M.P.No.17967/2019 in WP.32625/2016)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or direction in the nature of a Writ calling for the records of the 2nd Respondent's in passing the impugned order dated 20/07/2016 in Ref.No.Na.Ka.1376/2016/aa2 by canceling the Patta No.2426 stood in the name of the Petitioner, Eswar Achari and Sekar Achari the 3rd and 4th Respondents herein and quash the same and direct the 2nd Respondent to restore the Patta No.2426 stood in the name of the Petitioner, Eswari Achari and Sekar Achari the 3rd and 4th Respondents herein.

For Petitioner : M/s. N. Nagu Sah
For Respondents : Mr. R.P.Murugan Raja,
Government Advocate

ORDER

The present petition has been filed seeking the relief of quashment of the impugned order dated 20.07.2016 passed by the 2nd Respondent and a direction to the 2nd Respondent to restore the Patta that stood in the name of the petitioner as well as the 3rd and 4th Respondents.

2. It is the case of the petitioner that the subject properties are the ancestral properties which were partitioned among the petitioner's ancestors namely Narasimha Achari, Markanda Achari and Loganatha Achari by way of a registered partition deed dated 16.12.1914. In so far as the Narasimha Achari's share of the properties is concerned, certain portions of his share were gifted by way of a registered gift deed dated 04.02.1911. After the demise of said Narsimha Achari, the said properties devolved upon his legal heirs namely his son Govinda Achari and his daughter Pushpammal after the demise of said Govinda Achari who was issueless, the said properties devolved upon his sister Pushpammal and she was in possession and enjoyment of the same and she died on 15.07.2000 leaving the will dated 03.05.1999 bequeathing all her properties to the petitioners and her other nephews. Thereafter, on application of the petitioner before the 2nd Respondent, seeking to transfer the patta with respect to the said properties, the patta was transferred in favour of the petitioner as well as the 3rd and 4th Respondents. However, at the instigation of the third parties, the said patta was cancelled by the 2nd respondent vide the order impugned in this Writ Petition. Challenging the same, the petitioner has come up with the present petition.

3. Learned Counsel for the petitioner submits that once Patta has been granted, the Tahsildar has no jurisdiction to cancel the same. However, in case of the petitioner, the Tahsildar has cancelled the patta granted in favour of the petitioner and the co-owners of the subject property without even verifying the documents produced by the petitioner, which is arbitrary and illegal and the same is liable to be interfered with by this Court.

4. Learned Government Advocate appearing for the 1st and the 2nd Respondents submits that there is an appeal remedy available for the petitioner before the Revenue Divisional Officer. Instead of availing such remedy, filing of Writ Petition before this Court is not sustainable. Hence, the

petitioner may be permitted to file an appeal before the Revenue Divisional Officer and the same shall be considered in accordance with law.

5. In view of the fact that remedy of appeal is available before the Revenue Divisional Officer, without going any further into the issue, this Court, permits the petitioner to file an appeal before the concerned Revenue Divisional Officer along with the copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the Revenue Divisional Officer is directed to consider and pass appropriate orders on the same in accordance with law, within a period of twelve weeks thereafter.

6. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The District Collector,
Kanchipuram District,
Kanchipuram.
2. The Tahsildar,
Cheyyur Taluk Office,
Cheyyur, Kanchipuram District.

+1cc to M/s.N.Nagu Sah, Advocate, S.R.No.33454
+1cc to the Government Pleader, S.R.No.34232

W.P.No.32625 of 2016

NRL[co]
NSK/13/07/2022