

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.14462 of 2022
and
WMP.No.13678 & 13679 of 2022

S.Parthasarathy

... Petitioner

Vs

- 1 The Revenue Divisional Officer,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. Ravanan
4. The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram 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 of the first respondent in connection with the impugned orders passed by him in Na.Ka.No.4087/2015/A2 dated 12.06.2017, Na.Ka.No.4087/2015/A2 dated 08.08.2017 and confirmed by the second respondent in Na,Ka.No.4923/2021/B2 dated 14.12.2021 and quash the same and direct the respondents 1,2 & 4 to cancel the patta issued in favour of the 3rd respondent in respect of Survey No.245/1 which is now sub-divided as S.No.245/1A, 245/1B and 245/1A1 within a time limit.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

The writ petition has filed by the petitioner seeking to quash the orders of the first respondent in Na.Ka. No.4087/2015/A2 dated 12.06.2017, Na.Ka. No.4087/2015/A2 dated 08.08.2017 and confirmed by the second respondent in Na.Ka.No.4923/2021/B2 dated 14.12.2021 and direct the respondents 1,2 & 4 to cancel the patta issued in favour of the 3rd respondent in respect of Survey No.245/1 which is now subdivided as S.No.245/1A, 245/1B and 245/1A1 within a time limit.

2. The case of the petitioner is that the subject property in S.No.245/1 to an extent of 33 cents in patta No.474 of Vadakkal Village, Sriperumbudur, is an ancestral property. Upon verification in the revenue records, it is found that one Ravanan and Gnanasundaram, who are residing at Periyar Nagar, Madipakkam, Chennai, had created a bogus document in respect of the subject property and changed the patta in their favour and sold the same to various third parties. Therefore, the petitioner lodged a complaint before the District Collector, Kancheepuram to take action against the 3rd respondent on 06.03.2013. The District Collector called for information from the Tahsildar, Sriperumbudur vide its letter dated 15.05.2013. Further, the petitioner made a representation to the Revenue Divisional Officer, Tahsildar and also to the District Collector to cancel the patta granted favour of the third respondent, but the same was not considered. Hence, the petitioner filed a writ petition in W.P.No.14178 of 2016 to cancel the patta issued in favour of the third parties. This Court was pleased to dispose of the writ petition and directed the respondents to consider the representation made by the petitioner. Pursuant to which, the first respondent has issued an order dated 12.06.2017 rejecting the claim of the petitioner and directed the petitioner to approach the civil Court for proper remedy. Again, the petitioner made a representation to the second respondent to re-consider the issue. On 08.08.2017, the said representation was rejected. Challenging the same, the petitioner filed a writ petition before this Court in W.P.No.16650 of 2019 and this Court permitted the petitioner to file review application before the second respondent. The petitioner filed a review before the second respondent and there was no response. The second respondent refused to pass the order on the review and referred to register a criminal case against the petitioner as if he wasted the time. Again, the petitioner filed a writ petition before this Court in W.P.No.18293/2020 to pass orders on the review petition. Pursuant to which, the second respondent on 14.12.2021 rejected the review petition. Challenging the said rejection order, the petitioner has filed the present writ petition seeking appropriate directions.

3. The learned counsel for the petitioner submitted that this Court may permit the petitioner to file an appropriate suit before the competent civil Court as directed by the second respondent and further this Court may quash the observation for registration of criminal case against the petitioner.

4. The learned Additional Government Pleader submitted that initially, the petitioner executed a power of attorney in favour of one Gnanasundaram, who in turn sold the property in favour of third parties and subsequently, the petitioner cancelled the power of attorney. Intentionally, the petitioner suppressing all the facts, had made several representations before the revenue officials and filed the writ petitions before this Court and wasted the official time. Therefore, the second respondent rightly passed the impugned order and refer to file criminal complaint against the petitioner. Therefore, the learned counsel prays to dismiss the writ petition.

5. Heard, the learned counsel for the petitioner, and the Additional Government pleader appearing for the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. The petitioner claims that he is the owner of the subject property and he has not executed a power of attorney in favour of the third respondent and further, the third respondent has created a forged document and sold the property to various persons. On the contrary, the learned Additional Government Pleader submitted that initially, the petitioner executed a power of attorney in favour of one Gnanasundaram and subsequently, he cancelled the same on 17.05.2013. Such being the case, there exists a dispute with regard to subject property between the parties, this Court cannot interfere with in the matter by exercising its jurisdiction under Article 226 of the Constitution as the Court cannot enter into disputed questions of fact. The petitioner has to approach the competent civil forum to resolve the issue and the revenue officials have also no power to decide the matter.

7. The learned counsel for the petitioner prays to quash the criminal complaint pending against him as the second respondent vide proceedings dated 14.12.2021 initiated a criminal case against the petitioner for wasting the judicial time and revenue officials time. It is to be pointed out that it is the right of the petitioner to have his grievance by resorting to judicial proceedings, which cannot be precluded by holding that the petitioner is wasting precious judicial time. Therefore, to that extent, initiation of criminal prosecution is wholly perverse and this Court has to definitely interfere with the same.

8. For the reasons aforesaid, the withdrawn of criminal complaint against the petitioner alone stands set aside. Other portion of the order dated 14.12.2021 passed by the second respondent does not require any interference.

9. Considering the facts and circumstances of the case, this Court without going into the merits of the matter, passes the following order:

(i) This Court directs the petitioner to approach the competent civil Court and file a suit for establishing his rights;

(ii) if the petitioner approaches the civil Court, the learned Judge shall decide the case independently, without influencing the observation made in the impugned order;

(iii) if the petitioner succeeds the suit, the petitioner shall make a fresh application/petition to the concerned respondents along with the decree passed by the trial Court. After receipt of such application, the respondents shall consider the same and pass appropriate orders, after affording opportunity to the necessary parties, based on the decree of the trial Court, on merits and in accordance with law; and

(iv) the initiation of criminal complaint against the petitioner is alone set-aside and the impugned order in other aspects stand confirmed.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
Kancheepuram District,
Kancheepuram.

2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

3. The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram District.

+1cc to the Government Pleader, S.R.No.36429

WP.No.14462 of 2022

PA(CO)
UMA(19/07/2022)