



WEB COPY



W.P.No.16596 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.16596 of 2022

and

W.M.P.Nos.15875 & 15877 of 2022

S.J.Alphonse

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Collector Office at Thaiyarkulam,
Kancheepuram 631 501.

2. The Revenue Divisional Officer,
Kancheepuram District,
RDO Office at Thaiyarkulam,
Kancheepuram 631 501.

3. The Tahsildar,
Walajabad Taluk,
Kancheepuram District 631 605.

4. Mr.Rajjana

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order by the third respondent by issuing patta vide Reference No.2020/0103/03/195503-dated 21.09.2020 under patta



W.P.No.16596 of 2022

No.231 issued in favour of fourth respondent and quash the same as illegal thereby restoring the earlier patta issued in favour of the petitioner under Patta No.120 in respect of property comprised in Survey No.22/4 measuring 62 cents and in Survey No.22/5B measuring 42 cents situated at Ottanthangal Village, Walajabad Taluk, Kancheepuram District.

For Petitioner : Mr.M.Thangadurai
For R1 to R3 : Mr.P.Sathish
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent by issuing patta vide Reference No.2020/0103/03/195503-dated 21.09.2020 under patta No.231 issued in favour of fourth respondent and quash the same as illegal thereby restore the earlier patta issued in favour of the petitioner under Patta No.120 in respect of property comprised in Survey No.22/4 measuring 62 cents and in Survey No.22/5B measuring 42 cents situated at Ottanthangal Village, Walajabad Taluk, Kancheepuram District.

2. The case of the petitioner is that originally the aforesaid



W.P.No.16596 of 2022

properties were allotted to one Mrs.Gnanammal under Partition Suit decree passed in O.S.No.97 of 1973 and the said Mrs.Gnanammal executed Will dated 04.08.1978, and the same was registered, vide Document No.18 of 1978 in favour of her son Mr.Mariadass. The petitioner's father had purchased the aforesaid properties from the said Mr.Mariadass, as per the registered Sale Deeds, dated 23.08.1993 & 16.09.1993 respectively. Further, the petitioner's father had executed a registered Will, dated 18.12.1998 in favour of the petitioner. Subsequent to execution of the said Will, the third respondent had issued Patta in the name of the petitioner for the aforesaid properties. While so, the Village Administrative Officer has informed the petitioner that the Patta in respect of the aforesaid properties has been changed in favour of the fourth respondent. The contention of the petitioner is that without conducting any enquiry and without issuing any notice to the petitioner, the third respondent has issued patta in favour of the fourth respondent. Challenging the same, the petitioner has filed the present Writ Petition.

3. Since no adverse order is being passed against the fourth respondent, notice to the fourth respondent is dispensed with.



W.P.No.16596 of 2022

4. The learned counsel for the petitioner submitted that, the third respondent cannot issue a new Patta without cancelling old one, which was issued in favour of the petitioner. Further, he submitted that the power to cancel the Patta is vested only with higher authority namely Revenue Divisional Officer/2nd respondent herein as per Sections 12 and 13 of the Tamil Nadu Patta Pass Book Act (Tamil Nadu Act 4 of 1986). Apart from that no enquiry was conducted and no notice was issued by the third respondent before issuing new Patta in favour of the fourth respondent vide Patta No.231 under the impugned proceedings, which is not sustainable. Hence, the petitioner prays for passing appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

6. In view of the aforesaid submissions, this Court, without expressing any opinion on the merits of the case, permits the petitioner to file a fresh representation along with the copy of this order before the second respondent/Revenue Divisional Officer within a period of two weeks from the date of receipt of a copy of this order, and if such representation is filed, then



W.P.No.16596 of 2022

the second respondent/Revenue Divisional Officer is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of ten weeks thereafter, after affording an opportunity of hearing to the petitioner as well as the fourth respondent.

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

04.07.2022

Index : Yes / No
Speaking order: Yes/ No
jd

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W.P.No.16596 of 2022

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