



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23196 of 2014

And

M.P.Nos.2 of 2014 and 1 of 2015

Hector Rozaario

... Petitioner

Vs.

1. The District Revenue Officer,
Kancheepuram.
2. The Revenue Divisional Officer,
Tambaram.
3. The Tahsildar,
Sholinganallur.
4. Padma

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondents in connection with the impugned order passed by the second respondent in Pa.Mu.3720/2013 A dated 27.06.2014 and quash the same.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.Yogesh Kannadasan for R1 to R3
Special Government Pleader
Mr.G.Rajkumar
for M/s.S.Ramasamy for R4
Law Associates

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the respondents in connection with the impugned order passed by the second respondent in Pa.Mu.3720/2013 A dated 27.06.2014 and to quash the same.



2.The case of the petitioner is that the petitioner purchased the house site bearing No.383 in Ram Nagar South Extension measuring about 4800 sq.ft. comprised in Survey No.52 and 60 in 149, Pallikaranai Village, Saidapet Taluk, then Chinglepet District now Kancheepuram District from one Savitri alias Kokilam Seranjeevi vide sale deed dated 04.10.1999 and also obtained patta in his favour. Whiles, the fourth respondent made representation to the second respondent seeking to transfer the patta granted in favour of the petitioner to her name. Pursuant to the said representation, the second respondent vide order dated 02.01.2006 transferred the patta in favour of the fourth respondent.

3.The further case of the petitioner is that aggrieved by the same, the petitioner filed a petition before the first respondent. The

first respondent vide order dated 30.07.2007 set aside the order of the second respondent and directed the third respondent to conduct fresh enquiry. Thereafter, the fourth respondent filed W.P.No.17219 of 2010 before this Court seeking direction to the respondents 2 and 3 to measure her property as per the order of the first respondent dated 30.07.2007.

4.The further case of the petitioner is that this Court vide order dated 27.02.2012 made in W.P.No.17219 of 2010 directed the third respondent to implement the order passed by the first respondent within a time frame. Pursuant to the order of this Court dated 27.02.2012 made in W.P.No.17219 of 2010, the third respondent conducted detailed enquiry and patta was granted in favour of the petitioner. Aggrieved by the same, the fourth respondent filed appeal before the second respondent belatedly. The second respondent allowed the said appeal without giving any opportunity to the petitioner. Hence, this writ petition.

5.The learned counsel appearing for the petitioner submitted that pursuant to the order of this Court dated 27.02.2012 made in W.P.No.17219 of 2010, the third respondent conducted detailed enquiry and after conducting proper adjudication inbetween the petitioner and the fourth respondent, patta was granted in favour of the petitioner, against which, the fourth respondent preferred appeal before the second respondent. The second respondent without hearing the petitioner and without conducting proper enquiry passed the impugned order as against the petitioner, which is clear violation of principles of natural justice.

6.The learned counsel appearing for the fourth respondent submitted that the fourth respondent preferred appeal before the second respondent on 01.10.2013. Thereafter, the second



respondent issued summons to the petitioner, however, the petitioner did not appear before him. Thereby the second respondent passed the impugned order, which is perfectly in order and warrants no interference. The learned counsel further submitted that as against the impugned order, there is revisional remedy available to the petitioner before the first respondent. The petitioner instead of approaching the first respondent by filing revision has filed this writ petition under Article 226 of the Constitution of India before this Court, which is not sustainable.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. The facts in the present case is not in dispute. This is second round of litigation. In the earlier round of litigation, the first respondent remanded the matter back to the third respondent. Thereafter, the third respondent conducted detailed enquiry and after conducting proper adjudication inbetween the petitioner and the fourth respondent, patta was granted in favour of the petitioner, against which, the fourth respondent preferred appeal before the second respondent.

9. Though the fourth respondent claim that the second respondent issued summons to the petitioner and the petitioner did not appear before the second respondent, thereby, the second respondent passed the impugned order, the impugned order was passed in the absence of the petitioner, which is clear violation of principles of natural justice. Hence, this Court is inclined to interfere with the impugned order.

10. In view of the above, the impugned order dated 27.06.2014 passed by the second respondent is hereby set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to hear the petitioner and the fourth respondent and thereafter pass appropriate orders. The Revenue Authorities/ Official respondents are directed to maintain status - quo till the disposal of the appeal filed by the fourth respondent.

11. The writ petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



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To

1. The District Revenue Officer,
Kancheepuram.
2. The Revenue Divisional Officer,
Tambaram.
3. The Tahsildar,
Sholinganallur.

COPY TO
The Section Officer,
Writ Section,
High Court, Madras-104.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.24203
+1cc to Mr.G.Rajkumar, Advocate, S.R.No.24261
+1cc to the Government Pleader, S.R.No.24549

W.P.No.23196 of 2014 And
M.P.Nos.2 of 2014 and 1 of 2015

SJ(CO)
CT 25/04/2022