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W.P.No.33937 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.33937 of 2014
and
M.P.Nos.1, 2 & 3 of 2014

S.Muniyandi

...Petitioner

Vs.

1. The Tashildar,
Madurantakam Taluk,
Kancheepuram District.
2. The District Collector,
Kancheepuram,
Kancheepuram District.
3. The Revenue Divisional Officer (R.D.O.),
Madurantakam,
Kancheepuram District.
4. The Government of Tamil Nadu,
Rep.by its Secretary to the Government,
Department of Revenue,
St.George Fort, Chennai-600 009.

5. S.Krishnan (*Deceased*)

6. K.Thulasiraman

...Respondents



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(R6 impleaded, vide order dated 06.01.2015 made in MP.No.4 of 2014 in W.P.No.33937 of 2014)

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, after calling for the concerned record in his proceedings Say.Mu.Na.Ka.10383/2014/A-3 dated 15.09.2014 passed by the 2nd respondent herein and to quash the same and consequently direct the 2nd respondent to cancel the patta wrongly issued to S.Krishnan S/o Shri Sellan for Survey No.461/21 to an extent of 2.37 acres in Thimmapuram Village & Post, Madurantakam Taluk, Kancheepuram District.

For Petitioner : Mr.M.Arumugam

For Respondents : Mr.Yogesh Kannadasan, Spl.GP, for R1-R4
: Mr.K.Govi Ganesan, for R6

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the the 2nd respondent in respect of the proceedings in Say.Mu.Na.Ka.10383/2014/A-3 dated 15.09.2014, quash the same and to consequently direct the 2nd respondent to cancel the patta issued to S.Krishnan for the subject property.

2. The case of the petitioner is that, he claims to be in absolute possession and enjoyment of the Tharisu Poromboke comprised in S.No.461/21, measuring an extent of 2.37 acres, situated at Seethapuram



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Village, Kancheepuram District for more than 40 years and he is doing agriculture in the said land. Based on his possession, the petitioner made several representations before the revenue officials, seeking issuance of patta in his favour in respect of the subject property, which evoked no response. While such being the case, the 2nd respondent without conducting proper enquiry and without verifying the documents, has wrongly issued patta in favour of the 5th respondent. Immediately after knowing the same, the petitioner made repeated objections before the revenue officials, though several correspondence have taken place inbetween the officials, no final order has been passed on the petitioner's request / objection. Aggrieved by the inaction on the part of the officials, the petitioner filed a Writ petition in W.P.No.26670 of 2010 and this Court, vide order dated 18.03.2014 directed the 2nd respondent to consider the petitioner's representation and pass orders, pursuant to which, the 2nd respondent / District Collector has passed the present order under challenge, vide, proceedings dated 15.09.2014 in Say.Mu.Na.Ka.10383/2014/Aa3, rejecting the petitioner's request based on the uncertain enquiry report submitted by the officials. Hence, challenging the same, the present Writ petition is filed.



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3. Heard learned counsel on either side and perused the materials available on record.

4. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, the issue involved in the present case pertains to disputed questions of facts and is purely a civil dispute between the petitioner and the private respondents and the same cannot be entertained under Article 226 of the Constitution, the learned counsel for the petitioner restricted his prayer and sought permission of this Court to file appropriate Suit before the Competent Civil Court to establish the title over the subject property and sought further liberty of this Court to approach the 1st respondent / Tahsildar to file a fresh application for issuance of patta in his favour in respect of the subject property, after succeeding in the said suit to be filed by him. Further, the learned counsel for the private respondent has also not expressed any objection for the limited relief sought for by the petitioner.

5. In view of the aforesaid stand taken by the learned counsel for the



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petitioner, this Court, without interfering with the order under challenge, grants permission to the petitioner to file appropriate suit before the Jurisdictional Civil Court, to establish his title over the subject property. If such suit is filed, the jurisdictional Civil court shall consider the same and pass orders, without being influenced by any of the observations made in the present order under challenge. Further, liberty is granted to the petitioner to workout their remedy in accordance with law, subject to the outcome of the Suit.

6. With the above observations and directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

20.07.2022

skt

Speaking Order : Yes/ No

Index : Yes/ No

To

1. The Tashildar,

5/7



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Madurantakam Taluk,
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2. The District Collector,
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Kancheepuram District.
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M.DHANDAPANI, J.

skt

4. The Government of Tamil Nadu,
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