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W.P.No.24293 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.24293 of 2014
and M.P.No.1 of 2014

E.Shanmugam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai – 600 009.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Ambattur, Chennai.
- 3.The Tahsildar,
Ambattur Taluk Office,
Ambattur, Chennai.
- 4.Government Telecommunication Employees'
Co-operative Society Ltd.,
Rep. by Secretary,
No.37-A, Sembudas Street,
Chennai – 600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus calling for the records



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of the third respondent in proceedings in Na.Ka.666/2014/C3 dated 11.08.2014 rejecting petitioner's application filed seeking for cancellation of Patta and consequently direct restoration of the entry reflecting petitioner's predecessors in title as the owner of the land in S.No.125/1 and 125/5 in Vellanur Village, Ambattur Taluk, Tiruvallur District measuring about 4.30 acres and thereafter issue patta in favour of the petitioner.

For Petitioner : Mr.S.R.Rajagopal

For Respondents 1 to 3 : Mr.U.Bharanidharan,
Additional Government Pleader

For Respondent 4 : M/s.M.Udhaya Bhanu

ORDER

This writ petition has been filed for issuance of Writ of Mandamus calling for the records of the third respondent in proceedings in Na.Ka.666/2014/C3 dated 11.08.2014 rejecting petitioner's application filed seeking for cancellation of Patta and consequently direct restoration of the entry reflecting petitioner's predecessors in title as the owner of the land in S.No.125/1 and 125/5 in Vellanur Village, Ambattur Taluk, Tiruvallur District measuring about 4.30 acres and thereafter issue patta in favour of the petitioner.



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2. The case of the petitioner is that the petitioner had entered into an Agreement of Sale with one Balasundaram Nadar for the property comprised in S.No.125/1 and 125/5 to an extent of 4.30 acres, situated at Vellanur Village. Though the petitioner had paid a sum of Rs.2,200/-, towards sale price, the said Balasundaram Nadar did not come forward to register the sale deed. Therefore, the petitioner preferred a suit for Specific Performance in O.S.No.1375/1978 before the District Munsif Court, Poonamallee. Thereafter, the suit was decreed in favour of the petitioner on 09.08.1983.

2.1. Further the case of the petitioner is that the said Balasundarm Nadar in collusion with his four children, executed a fraudulent sale deed in respect of 3.81 acres, out of 4.30 acres to one Govindaraj and his sons on 13.05.1994 under Doc.No.2077 of 1994. Pursuant to which, the aforesaid Govindaraj filed a suit, seeking for an injunction against the petitioner in O.S.No.474 of 1994 and an order of injunction was also passed on 30.06.1994. Challenging the same, the petitioner preferred an appeal in C.M.A.No.16 of 1994 and the same was allowed. This being so, the fourth respondent herein obtained a patta on their favour for the subject property. Hence, the petitioner made an application



before the third respondent for transfer of patta and made a representation dated 21.06.2012, however, no action was taken. Aggrieved over the same, the petitioner filed a writ petition in W.P.No.35057 of 2012 before this Court and this Court, vide order dated 07.02.2014 directed the respondents therein to consider the petitioner's representation and pass appropriate orders. Pursuant to which, the third respondent issued a proceeding in Na.Ka.No.666/2014/C3 dated 11.08.2014, rejecting the claim of the petitioner. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. Learned counsel for the petitioner would submit that the petitioner is the owner of the property and obtained a decree dated 09.08.1983 on his favour for the said property. Since, the petitioner possess the valid title, refusing to grant patta on his favour is not sustainable one. Accordingly, he prayed for allowing this writ petition.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as against the impugned order, there is effective appeal remedy available to the petitioner before the Revenue



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Divisional Officer, in terms of Section 12 of the Tamil Nadu Patta Pass Book Act, 1983 and without exhausting the appeal remedy, the petitioner has filed this writ petition, which is unsustainable one.

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

6. The facts in the present case is not in dispute. Admittedly, the petitioner has made an application for cancellation of patta, which was sanctioned in the name of fourth respondent and the same was rejected by the Tahsildar/third respondent. Challenging the same, this writ petition is filed. As rightly submitted by the learned Additional Government Pleader appearing for the respondents 1 to 3, as against the order passed by the Tahsildar / third respondent, there is an effective appeal remedy available before the Appellate Authority / Revenue Divisional Officer, in terms of Section 12 of the Tamil Nadu Patta Pass Book Act, 1983, and without exhausting the said appeal remedy, straight away approaching this Court by way of filing this writ petition, challenging the order passed by the Tahsildar / third respondent is not sustainable. Hence, the prayer sought in this writ petition cannot be granted.



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7. In view of the above, this court, without interfering with the order under challenge, grants liberty to the petitioner to file appropriate appeal before the second respondent / Revenue Divisional Officer within a period of two weeks from the date of receipt of a copy of this order. On receipt of such appeal, the second respondent / Revenue Divisional Officer shall consider the same on merits and in accordance with law and pass appropriate orders as expeditiously as possible and the period pending before this Court has been excluded for the purpose of limitation.

8. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

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Index : Yes/No

Speaking Order : Yes/No

Note: Registry is directed to return the original impugned order, enabling the petitioner to file appeal before the Appellate Authority



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M.DHANDAPANI,J.

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