



W.P.No.19763 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.19763 of 2017
and W.M.P.No.21335 of 2017

Venkataraman

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by Revenue Department,
Fort St.George,
Chennai – 600 001.

2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.

3.The Tahsildar,
Tenkeni Kottai Taluk,
Krishnagiri District.

4.Nanjundan

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records in reference Na.Ka.No.16735/2016/P2 dated Nil.06.2017, passed by the second respondent and quash the same.

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WEB COPY For Petitioner : Mr.R.Thamaraiselvan

For Respondents 1 to 3 : Mr.T.K.Saravanan,
Government Advocate

For Respondent 4 : Mr.S.Nagarajan,

ORDER

The petitioner has filed this writ petition for issuance of Writ of Certiorari calling for the records in reference Na.Ka.No.16735/2016/P2 dated Nil.06.2017, passed by the second respondent and quash the same.

2. The case of the petitioner is that the land comprised in S.No.222/11 to an extent of 1.55 acres, Soodanur Village, Palakkadu Taluk was assessed in the name of Mr.Pandaram, Son of Mottaiyan and Mr.Perumal, Son of Mr.Pachayappan in Patta No.241 as per the settlement records in the year 1954. Subsequently, a separate patta was issued in the name of Mr.Perumal, son of Mr.Pachayappan. Thereafter, the said Perumal conveyed the aforesaid property to an extent of 75 cents in favour of one Muniappan. After the demise of Muniappan the said property was enjoyed by his legal heirs.

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Thereafter, the legal heirs of Muniappan conveyed the property in favour of one J.Muthu vide Doc.No.796 of 2008 dated 17.10.2008 and also taken possession of the said property and obtained patta on their names on 11.05.2001.

2.1. Further the case of the petitioner is that the said J.Muthu conveyed the property in favour of the petitioner and his minor son vide Doc.No.2688 of 2014 dated 09.12.2014. Subsequently, the petitioner applied for patta and obtained the same on his favour from the third respondent vide patta No.732. This being the case, the fourth respondent filed an appeal before the second respondent for cancelling the aforesaid patta issued in favour of the petitioner on the ground that the subject property was owned by fourth respondent's father viz., Mr.Chinnappa Naidu @ Krishna Naidu. Moreover, the fourth respondent's father purchased the property from one Chinnapa Mudaliar in the year 1973 and under the partition, the property was allotted to the fourth respondent and the said partition deed is registered as Doc.No.657 of 1981 and as per the partition deed, the fourth respondent is entitled to the property and made an application for cancellation of patta issued in favour of the petitioner. The second respondent without conducting any proper enquiry,



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cancelled the patta and restored the same in favour of the fourth respondent.

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 the same was established by way of title deed before the second respondent, however, without considering the same, the second respondent has cancelled the patta issued in favour of the petitioner and mutated the records in the name of the fourth respondent is not sustainable one. Accordingly, he prayed for allowing this writ petition.

4. Learned counsel appearing for the fourth respondent would submit that even after the restoration of patta in favour of the fourth respondent, there was a frequent dispute between the petitioner and the fourth respondent, thereby, the fourth respondent filed an Original Suit in O.S.No.80 of 2022 on the file of Sub-court, Palacode and the same is pending for adjudication.

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



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6. The facts in the present case is not in dispute. Admittedly, the subject property was alienated in favour of the petitioner by one J.Muthu and and patta was also issued on his favour, however, the fourth respondent claimed that the subject property was originally belonged to his father and filed an appeal before the second respondent for cancellation of patta issued in favour of the petitioner and thereafter, patta was restored in his name and cancelled as against the petitioner, for which the present writ petition is filed, however, the fact remains that for the very same property, the fourth respondent has already initiated an Original Suit in O.S.No.80 of 2022 on the file of the Sub Court, Palacode and the same is pending.

7. In view of the above facts and circumstances, this Court, without rendering any opinion on the merits of the case, grants liberty to the petitioner as well as the private respondent to canvass all those things before the Civil Court, where the suit is pending and this Court directs the Trial Court to decide the issue between the petitioner and the fourth respondent without being influenced by any of the observation made in the impugned order in Na.Ka.No.16735/2016/P2 dated Nil.06.2017 and pass appropriate orders on



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merits and in accordance with law.

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8. With the aforesaid direction and liberty, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

To:

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Krishnagiri District.



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M.DHANDAPANI,J.

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