



W.P(MD)No.15556 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.15556 of 2015

S.Kumaresan

... Petitioner

Vs.

1.The Director of Land,
Revenue Survey and Settlement Office (Ni.Aa),
Office of the Commissioner,
Public Works Campus,
Chennai-600 005.

2.The Tahsildar,
Agadeeshwaram Circle,
Nagercoil,
Kanyakumari District.

3.The Assistant Director,
Survey and Settlement,
Madurai Circle,
Madurai.

4.T.Vijayakumar
5.Liasammal

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first



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respondent to consider the representation of the petitioner, dated 18.12.2014, submitted for cancelling the patta issued by the third respondent in favour of the fourth and fifth respondents father in respect of 0.00.39.484 Sq. Meter in the cart tract road measuring 0.06.11.859 hectares by sub dividing it as 217 Sub Division as No.H.7/217 and restore the same to the original position as common cart tract and remove the obstacles for using the same by the petitioner freely and dispose of the same within a time frame as specified by this Court.

For Petitioner : M/s.S.Palani Velayutham

For R-1 to R-3 : M/s.M.Lingadurai
Special Government Pleader

For R-4 & R-5 : M/s.V.P.Rajan

ORDER

The present Writ Petition has been filed seeking a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner, dated 18.12.2014, for cancellation of the patta issued in favour of the private respondents.

2. According to the learned Counsel for the petitioner, erroneously patta has been granted in favour of the private respondents in sub division No.H7/217, which is a common cart tract. Since patta has been



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issued in favour of the private respondents with regard to a common cart tract, he is being prejudiced. Hence, he has presented a representation to the first respondent to consider the said representation and to cancel the patta granted in favour of the private respondents herein.

3. The learned Counsel for the private respondents had contended that the petitioner had already filed O.S.No.765 of 1997 on the file of the District Munsif Court, Nagercoil, for the same relief and the said suit was dismissed on 17.04.2007, granting liberty to the writ petitioner to approach the revenue authorities. Based upon the said liberty, the petitioner had already approached the second respondent herein. The second respondent by way of a communication, dated 25.05.2012, to the Sub Collector, Nagercoil, had analyzed the entire issue and arrived at a finding that patta has been correctly issued in favour of the private respondents herein. Thereafter, the petitioner had approached the Sub Collector, Nagercoil, who has passed an order on 26.04.2013, confirming the fact that the survey number in dispute is the private property of the fourth and fifth respondents herein. Thereafter, the petitioner has approached the Commissioner, Nagercoil Municipality with regard to the



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fact that it is a common cart tract and he wanted to remove the encroachment made by the private respondents herein. The Commissioner, Nagercoil Municipality, has passed an order on 27.03.2018, confirming the order passed by the Sub Collector, Nagercoil and directed the writ petitioner to approach the District Revenue Officer, Nagercoil for any further adjudication. Hence, according to the learned Counsel appearing for the private respondents, the present writ petition is not maintainable, on the ground that, the first respondent is not the competent authority to consider either grant or cancellation of patta.

4. The learned Special Government Pleader appearing for the official respondents have also contended that in view of the orders passed by the Sub Collector and the Commissioner, Nagercoil Municipality, the first respondent cannot consider the representation of the writ petitioner at this point of time.

5. I have carefully considered the submissions made on either side.



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6. The narration of the above said facts will clearly indicate that the petitioner is aggrieved by the grant of patta in favour of the private respondents with regard to sub division No.H7/217, having an extent of 0.06.11.859 hectares. The order passed by the Commissioner, Nagercoil Municipality, clearly indicates that any grievance of the petitioner has to be ventilated only before the District Revenue Officer, Nagercoil. I am in full agreement with the contentions raised by the private respondents and the official respondents that the first respondent will not have any jurisdiction to entertain any representation for cancellation of revenue patta.

7. In view of the above said facts, the present writ petition stands disposed of, with liberty to the writ petitioner to approach the District Revenue Officer, Nagercoil for ventilating all the grievances. There shall be no order as to costs.

17.10.2022

Index : Yes / No
Internet : Yes / No
btr



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R.VIJAYAKUMAR, J.

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Order made in
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