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Order dated 02.11.2023
in W.P.No.28534 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.11.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28534 of 2023
and
W.M.P.No.28088 of 2023

S.Prabakaran

Vs.

.. Petitioner

1. The District Revenue Officer,
Chengalpattu District.
2. The Revenue Divisional Officer,
Tambaram, Chengalpattu District.
3. The Tahsildar,
Tambaram Talluk, Chengalpattu District.
4. P.Ashokkumar Jain
5. Mrs.Leelakothari
6. Mr.V.Pankaj Kothari
7. Mrs.Chandani Modi
8. Mrs.Vimala Devi

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus to call for the

Page No.1/10



Order dated 02.11.2023
in W.P.No.28534 of 2023

records of the second respondent in pursuant to the impugned order in Ni.Mu.3195/2022/A, dated 01.09.2023 and quash the same and consequently direct the respondents 1 to 3, to issue Patta in favour of the petitioner herein for his land property to an extent of acre 0.65 cents, comprised in S.No.61/3A2 of Madurapakkam Village, Tambaram Taluk, Chengalpattu District.

For petitioner : Mr.V.Logeswaran

For respondents: Mr.P.Gurunathan, Addl.G.P. for RR-1 to 3

No appearance for RR-4 to 6

R-7-notice returned with endorsement "no such person"

R-8 - Notice sent, service awaited

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in pursuant to the impugned order in Ni.Mu.3195/2022/A, dated 01.09.2023 and quash the same and consequently direct the respondents 1 to 3, to issue Patta in favour of the petitioner herein for his land property to an extent of acre 0.65 cents, comprised in S.No.61/3A2 of Madurapakkam Village, Tambaram Taluk, Chengalpattu District.



Order dated 02.11.2023
in W.P.No.28534 of 2023

2. It is the grievance of the petitioner that the impugned order passed by the first respondent is contrary to the order of this Court on the ground that while the civil suits are pending, Patta was issued ignoring the pendency of the civil suits.

3. It is the case of the petitioner that he is the absolute owner of the property situated at Madurapakkam Village, Tambaram Taluk, Chengalpattu District, comprised in Punja S.N.61/3A2, ad-measuring an extent of Acre 2.65 cents, which originally belonged to his grand-mother, viz., Alamelu Ammal. A joint Patta was also issued in the name of the said Alamelu Ammal and one Thanthoni Ammal, in respect of the said property, vide Patta No.17. They were in continuous joint possession and enjoyment of the same and thereafter, they orally arranged and portioned the said property for their convenient purpose of cultivation and enjoyment. The said Alamelu Ammal acquired, possessed and enjoyed the Southern portion of the land of an extent of Acre 1.65 cents and he said Thanthoni Ammal acquired, possessed and enjoyed the Northern portion of the land of an extent of Acre 1.00 cent. In the year 1950, the said Alamelu Ammal and her minor son Shanmuga Naicker who is the father of the petitioner herein, had sold part portion of the property of an extent of Acre 1.00 cents



Order dated 02.11.2023
in W.P.No.28534 of 2023

in and out of the above said Acre 1.65 cents in a total extent of Acre 2.65 cents in S.No.61/3A2 to one Nallathambi by executing the sale deed dated 16.11.1950 and the same was registered as Document No.2036 of 1950 in the Sub-Registrar Office, Pallavaram and the remaining extent of Acre 0.65 cent was peacefully possessed and enjoyed by the said Alamelu Ammal till her life time along with her only son Mr.Shanmuga Naicker.

4. It is the further case of the petitioner that after demise of the said Alamelu Ammal, her only son and the petitioner's father Shanmugha Naicker inherited the said property of an extent of Acre 0.65 cent in S.No.61/3A2 and he had been put in peaceful possession and enjoyment of the said property and while that being so, in January 2012, the said Shanmugha Naicker settled the property along with some other properties in the petitioner's name by executing a executing a settlement deed, dated 25.01.2012, registered as Document No.365 of 2012 in the Sub-Registrar Office, Pallavaram and the said settlement deed was acted upon and the petitioner became the absolute owner of the said property of an extent of Acre 0.65 cent in S.No.61/3A2 situated at Madurapakkam Village and the petitioner is in possession and enjoyment of the same as his separate property.



Order dated 02.11.2023
in W.P.No.28534 of 2023

5. Thereafter, the petitioner made an application before the Tahsildar, Tambaram for mutation of records and for Patta name Transfer in respect of the said property based on his settlement deed, but the Tahsildar had not taken any action on the said application and hence, the petitioner earlier filed a Writ Petition in W.P.No.29644 of 2012 before this Court and the said Writ Petition was disposed of on 02.11.2012 directing the Tahsildar, Tambaram to take action on the petitioner's application for Patta. Though the Tahsildar, Tambaram passed orders on 31.01.2013 on his request for Patta, but he totally ignored the petitioner's claim for Patta in respect of the subject property and passed orders only in respect of another property in S.No.5/5 in Moolacherry Village. Hence, the petitioner preferred an appeal before the Revenue Divisional Officer (RDO), Tambaram, and the RDO also failed to consider the plea of the petitioner and pass orders in respect of the subject landed property. Hence, the petitioner filed a Revision Petition dated 02.08.2014 before the District Revenue Officer (DRO), Kancheepuram, which was not considered despite reminders.

6. At this stage, the Tahsildar, Tambaram wrongly issued Patta in respect of the subject land in favour of the fourth respondent and his



Order dated 02.11.2023
in W.P.No.28534 of 2023

brother, based on the alleged sale deed dated 27.10.2006 in Document No.9545 of 2006 at the Sub-Registrar Office, Pallavaram, who are said to be the legal heirs of Subbaraya Padayachi in respect of Acre 1.34 cents in S.No.61/3A2 of Madurapakkam Village by wrongly including the petitioner's property. Hence, the petitioner gave a representation on 05.12.2013 before the Tahsildar, Tambaram to cancel the said Patta issued in favour of the fourth respondent and another. Under these circumstances, the petitioner filed a suit in O.S.No.573 of 2015 before the District Munsif Court, Alandur against the private respondents herein and some others, for recovery of possession, and also for declaration declaring the said sale deed, dated 27.10.2006 in Doc.No.9545 of 2006, as null and void. When the said suit is pending, the fourth respondent and his men attempted to dis-possess the petitioner from the said property, and hence, the petitioner filed another suit in O.S.No.39 of 2017 before the District Munsif Court, Alandur, which is also pending.

7. As there was no appearance on the petitioner's side on 20.12.2022, the said suit in O.S.No.573 of 2015 was dismissed for default, however, the petitioner filed restoration petition on 03.01.2023 in I.A.No.1 of 2023 in O.S.No.573 of 2015 which is also pending.



Order dated 02.11.2023
in W.P.No.28534 of 2023

WEB COPY

8. During the pendency of the above said civil suits, pendente-lite, the respondents 4 to 8 herein unlawfully entered into sale agreement on 10.05.2022 with one M/s.K.P.Civil Construction (P) Ltd., and hence, the petitioner filed one more suit in O.S.No.63 of 2023 on the file of the District Munsif Court, Alandur, against the private respondents herein and others, which is also pending. At this juncture, the private respondents 4 to 8 filed W.P.No.31458 of 2022 before this Court to direct to consider their appeal petition, dated 19.05.2022 submitted for Patta and sub-division and obtained an order on 25.11.2022 in that Writ Petition. But it is the grievance of the petitioner that his request for Patta in respect of the said property, was not considered, inspite of the order of this Court in W.P.No.29644 of 2012, dated 02.11.2012. In the above background, the second respondent passed the impugned order dated 01.09.2023 in favour of the private respondents 4 to 8 herein, directing the third respondent to issue Patta, after making sub-division in S.No.61/3A2A. Hence, the present Writ Petition.

9. The learned counsel for the petitioner submitted that no opportunity of hearing was afforded to the petitioner before passing the impugned order, which is totally against the decision of this Court in



Order dated 02.11.2023
in W.P.No.28534 of 2023

W.P.No.262 of 2018, etc. (D.Tulasi Vs. The District Revenue Officer, Dharmapuri), dated 09.06.2023 and also the subsequent orders passed in several Writ Petitions. The impugned order is also against the provisions of Section 14 of the Tamil Nadu Patta Pass Book Act and the Rules made thereunder and also ignoring the pendency of civil cases, inspite of knowing the same.

10. Learned counsel for the petitioner also contended that the private respondents have filed an appeal before the second respondent challenging the order passed by the third respondent. That appeal filed by the private respondents was allowed and challenging the same, the petitioner has filed a revision before the first respondent and the same is pending. Suppressing the fact that the petitioner has already filed revision before the first respondent, he has filed the present Writ Petition also. The petitioner has already invoked the alternative remedy, and therefore, this Writ Petition is not maintainable and the same is liable to be dismissed.

11. Accordingly, this Writ Petition is dismissed. The first respondent is directed to dispose of the revision filed by the petitioner in accordance with law and on merits, after giving an opportunity of hearing to both the petitioner and the private respondents herein and rival claimants, if any,



Order dated 02.11.2023
in W.P.No.28534 of 2023

within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, W.M.P. is closed.

02.11.2023

CS

To

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2. The Revenue Divisional Officer,
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3. The Tahsildar,
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WEB COPY



Order dated 02.11.2023
in W.P.No.28534 of 2023

P.VELMURUGAN, J

CS

W.P.No.28534 of 2023

02.11.2023

Page No.10/10