



W.P.No.34864 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.34864 of 2022

K.Rameshbabu

... Petitioner

Vs

1.The District Collector,
Thiruvallur District, Chennai.

2.The Tahsildar,
Gummidipoondi Taluk,
Thiruvallur District, Chennai.

3.The Revenue Inspector,
Madaharpakkam Village,
Thiruvallur District, Chennai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the order dated 08.02.2019 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.R.Udhayakumar

For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

The prayer sought for herein is for a writ of certiorari calling for the records pertaining to the order dated 08.02.2019 passed by the 2nd respondent and quash the same.

2. Insofar as the land at Survey No.246/2 to an extent of 5.29 acres out of which the petitioner is concerning about only 4 acres, which according to the petitioner, is a patta land where patta has been issued in the name of the petitioner's father long years back even prior to UDR records and subsequently the petitioner's father had settled the property in favour of the petitioner where the petitioner had nurtured some trees. When that being so, based on a complaint given by the third party, a proceedings has been issued by the respondent Tahsildar dated 08.02.2019 under which he had stated that, based on the complaint, enquiry was conducted by the Tahsildar and accordingly he had sent a report to the District Collector who may conclude the enquiry and decide as to the right of the petitioner to cut the trees which have been grown up by the petitioner in the said land and till such time the tree should not be cut off by the petitioner that was the order passed by the Tahsildar dated 08.02.2019 which is impugned in this writ petition.



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3. Assailing the same, Mr.R.Udhayakumar, learned counsel appearing for the petitioner would submit that, patta has been issued in the name of the petitioner's father in respect of the subject land in the early fifties and since then the petitioner's father had been in possession and enjoyment of the property and thereafter he has settled the property in the name of the petitioner. Therefore, it is a patta land absolutely belongs to the petitioner therefore there is no other impediment for the petitioner to nurture the trees which he has already developed and therefore there could be no prohibitory order like the one which is impugned herein passed by the Tahsildar concerned to restrain the petitioner from cutting the trees.

4. In this context, even though the said communication was issued in February 2019, so far no conclusion has reached by the District Collector who supposed to conduct the enquiry as per the proceedings of the Tahsildar which is impugned herein. Therefore, the learned counsel would contend that, the petitioner is ready to cooperate with the District Collector to complete the enquiry and thereafter to pass an order at the earliest so that the petitioner can cut the trees which are standing in the subject land.

5. On the other hand, Mr.P.Sathish, learned Additional Government



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Pleader for the respondents would submit that, since the issue seems to be pending from 2019, the District Collector may take up this matter and decide the issue at the earliest after giving an opportunity of being heard to both the petitioner as well as the complainant, of course on the basis of the report forwarded already by the Tahsildar concerned within a time frame that may be stipulated by this Court and he would further submit that, depending upon the decision to be made by the District Collector after completing the enquiry, the petitioner's right would be decided and accordingly he can act upon.

6. Having regard to the said submissions made by the learned counsel appearing for both sides and taking note of the aforesaid factual matrix as projected by both sides, this Court is inclined to dispose of this writ petition with the following order:

There shall be a direction to the 1st respondent/District Collector to complete the enquiry in respect of the subject land which is claimed by the petitioner as his patta land on the basis of the report already been received from the Tahsildar concerned and if any further input is necessarily to be obtained



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by the District Collector, he can do so and after giving an opportunity of being heard to the petitioner such enquiry shall be completed and orders shall be passed by the District Collector within a period of eight weeks from the date of receipt of a copy of this order.

7. With this direction, this Writ Petition is disposed of. No costs.
Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No
Sgl

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R.SURESH KUMAR, J.

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