BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19730 of 2020

Narayanan ... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The District Revenue Officer,
Trichy District,
Trichy.

3.The Revenue Divisional Officer,
Musiri Division, Musiri,
Trichy Distict.

4.The Tahsildar,
Thuraiyur Taluk,
Trichy District.

5.Kannan

6.Balakumar

7.Sivanathan ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 to 4 to cancel the fraudulent Patta in patta No.3595 issued to the 5th respondent and subsequently transferred to the respondents No.6 and 7 and restore the patta in Patta No.2200 issued to the petitioner in respect of the petitioner's land in S.No.76/2J2I, Kaliyampatti Village, Thuraiyur Taluk, Trichy District and further direct the respondents No.1 to 3 to take departmental action against the concerned erred officials of Thuraiyur Taluk Office for their illegal activity, by considering the representation of the petitioner dated 16.10.2020.

For Petitioner	:	Mr.R.Gowri Shankar
For R-1 to R-4	:	Mr.B.Saravanan, Additional Government Pleader.
For R-5 to R-7	:	Mr.M.Ashok Kumar

ORDER

This Writ Petition is filed for Mandamus, directing the respondents 1 to 4 to cancel the fraudulent patta No.3595 issued to the 5th respondent and subsequently transferred to the respondents 6 and 7 and restore the patta number in Patta No.2200 issued to the petitioner in respect of the petitioner's land in Survey No.76/2J2I and further direct the respondents 1 to 3 to take departmental action against the erring officials based on the petitioner's representation dated 16.10.2020.

2. The brief facts are that the petitioner's father had purchased the land in Survey No.76/2, Kaliyampatti Village, Thuraiyur Taluk from one Subramaniya Asari vide registered Document No.151 dated 29.01.1958 to the extent of 16 ½ cents out of 1 Acre 34 cents for valuable consideration. Thereafter, the family was in possession and enjoyment of the said land. The said Subramaniya Asari purchased the said land from one Nallammal and her son Bomma Muthuraja belonged to Kaliyampatti Village vide registered documents dated 06.02.1934 and 01.01.1944 respectively. The said Nallammal purchased the said land from one Aravayee on 22.08.1932. In fact, in the resettlement register of Pagalavadi Village dated 15.07.1927, the said Aravayee name entered in respect of said land in Survey No.76/2. The petitioner has given 1.50 Ares land out of 16 ½ cents in Survey No.76/2 to the petitioner's sister and her son and the same is sub-divided as 76/2C2 and the patta issued in their names in Patta No.1719 and also the petitioner has constructed a house which is sub-divided as 76/2J2A and the remaining vacant land to the extent of 2 Ares was subdivided as 76/2J2I and the same is in petitioner's possession and enjoyment. The respondents 6 and 7 had tried to encroach the petitioner's vacant land, hence a criminal complaint was also registered. The respondents 6 and 7 informed the petitioner that they

purchased the said land. The 5th respondent colluded with the Tahsildar and illegally obtained patta in respect of the petitioner's land in Survey No.76/2J2I.

3. According to the respondents 1 to 4, the patta was changed based on the petitioner's "No Objection Letter". However, the petitioner denied execution of such letter. Moreover, if the petitioner wants to transfer the land to some other persons, then it should be as per law either by way of sale deed or settlement deed or gift deed or any other mode of transfer. Simply by changing the patta from one name to another, the property cannot be transferred. Therefore, no objection letter relied on by the respondents cannot be entertained.

4. The respondents 5 to 7 relies on the partition deed executed among the family members and submitted that under 'E' schedule the property in S.No.76 was allotted to them. On perusing the partition deed under 'E' schedule, it is seen that the respondents have received the property in Survey No.76/4D only and not the entire S.No.76. However, the respondents have executed the sale deed dated 2606.2018 wherein he had sold the property in Survey No.76/4D and the same cannot be find fault. But along with the said property the

respondents had sold the property in Survey No.76/2J2I, which property is not shown in the partition deed at all. Therefore, the respondents by relying on the partition cannot seek to transfer patta in their names especially for the Survey No.76/2J2I. It is pertinent to point out that, if the respondents had received the property in Survey No.76/2J2I under the said partition, then the alleged "no objection letter" from the petitioner is not necessary at all, hence it is evident that the respondents are well aware that Survey No.76/2J2I is not mentioned in the partition deed, hence the act of the respondents by relying on the alleged 'no objection would clearly indicate that the respondents are trying to usurp the land of the petitioner. Therefore, the patta changed in the name of the respondents based on the bogus 'no objection' certificate is incorrect and illegal. Therefore, this Court is inclined to quash the impugned order and the same is quashed.

5. However, the learned counsel appearing for the respondents submitted that the larger extent of land was belonging to the family but such plea cannot be raised here. If it is so, the respondents 4 to 7 are at liberty to seek remedy before the appropriate civil court and establish their rights independently. The official respondents are directed to restore the patta in the petitioner's name.

The said exercise shall be completed within a period of two (2) weeks from the date of receipt of a copy of this order.

6. Issuing of bogus patta is regular affair in the Revenue Department. Therefore, the learned Single Judge of this Court has taken cognizance of the act of the revenue authorities and has heavily come down on the revenue authorities. The relevant portion of the order dated 22.03.2019 in W.P.(MD).Nos.11279 of 2015 and 22496 of 2018 is extracted hereunder:

> *12. The issue centering around both the Writ Petitions relates to the issuance of bogus pattas without proper inspection and enquiry.*
>
> *13. Admittedly, both the petitioners purchased the property vide registered sale deeds and also got pattas in their favour. When third parties interfered, they came to know about the issuance of bogus pattas by the officials concerned. The petitioners made complaints against the concerned, but, they have been made to run from pillar to post to get their grievances redressed. Even then, the representations given to take action against the officials concerned were also not yet considered from 2015 and 2018 respectively, resulting in filing of the present Writ Petitions.*
>
> *14. In a matter of this nature, when a person applied for issuance of patta, a duty is cast upon the concerned officials to inspect the property for which the patta is*

applied and after conducting thorough enquiry, patta can be issued. But, in the cases at hand, without conducting any enquiry and without conducting local inspection in the properties in question, pattas were issued to the persons without verifying as to who is the real owner.

15. It is not the one case relating to issuance of patta, many cases arising out of bogus pattas are pending without seeing the light of the day. The failure on the part of the concerned officials in not making proper inspection while issuing patta made the innocent people to run from pillar to post seeking justice delivery system either knocking the doors of this Court under Article 226 of the Constitution of India or the authorities concerned. However, they do not get any justice forthwith.

16. In view of the above stated position, this case should be an eye opener to the officials concerned who involved in issuing such bogus pattas. Therefore, while concluding the cases, I would like to issue some guidelines to the Government.

17. The Government should examine the issue in detail and collect all the complaints pending disposal on same line. If any of the complaints with proper documents establish the crime of issuing bogus pattas, immediate action against the concerned officials be taken by placing under suspension, following the departmental proceedings. Necessary circular, in this regard, should also be issued by all the District Collectors, so as to ensure that such kind of issuance of bogus pattas does not repeat in future, to the concerned departments. It is also made clear that if any bogus patta is issued, necessary action must be taken against the erring officials.

18. Now, coming to the cases at hand, in view of the submission made by the learned Special Government Pleader appearing for the respondents, the first respondent herein is directed to conduct proper enquiry on the basis of the representations made by the petitioners dated 18.08.2014 and 17.08.2018 respectively and on enquiry, it reveals that if any lapses is committed, appropriate action be taken against the erring officials on merits and in accordance with law. Such an exercise shall be carried out, within a period of six weeks from the date of receipt of a copy of this order.

Therefore, the revenue authorities are directed to act as per law without deviating, without creating any short cut methods and shall not indulge in perpetual civil disputes among the parties.

7. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

31.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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2.The District Revenue Officer,
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3.The Revenue Divisional Officer,
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S.SRIMATHY, J.

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