IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 1106 of 2024

L.S.Tamizhselvan ... Petitioner

versus

1. The District Collector,
Chingleput District,
Chingleput – 603 001.

2.The District Revenue Officer,
Chingleput District,
Chingleput – 603 001.

3.The Revenue Divisional Officer,
Tambaram Revenue Division,
Tambaram, Chennai – 600 045.

4.The Tahsildar,
Tambaram Taluk,
Tambaram, Chennai – 600 045.

5.R.Lalitha ... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the third respondent and quash the order dated 29.12.2023 in Na.Ka.No.3583/2023/A said to have been passed by the third respondent purporting to cancel Patta No.9076 standing in the name of the petitioner and his family members in respect of Hectares 0.41.50 ares i.e. acre 1.02 cents situated at S.No.184/2B, Perungalathur Village, Tambaram Taluk, Chingleput District, as the said order is tainted with impropriety and it is non est, arbitrary, unconstitutional, ultra vires, in violation of principle of law, natural justice and jurisprudence.

For Petitioner	:	Mr.N.R.Anantha Ramakrishnan
For Respondents	:	Mr.T.Arun Kumar Additional Government Pleader for R1 to R4 Dr.A.Thiyagarajan Senior counsel for Mr.G.Sathish Kumar for M/s.GSK Law Firm for R5

O R D E R

This writ petition has been filed to quash the impugned order, dated 29.12.2023 passed in Na.Ka.No.3583/2023/A on the file of the third respondent, purporting to cancel Patta No.9076, standing in the name of the petitioner and his family members in respect of Hectares 0.41.50 ares i.e., acre 1.02 cents situated at S.No.184/2B, Perungalathur Village, Tambaram Taluk, Chingleput District, as the said order is tainted with impropriety and it is non-est, arbitrary, unconstitutional, ultra vires, and passed in violation of the principles of law, natural justice and jurisprudence.

2. The learned counsel for the petitioner submitted that the petitioner has purchased the subject property from R.Ramakrishnan Naicker and Suseela, who are the Power agents of R.Kamalakannan, vide Sale Deed dated 10.02.2006, registered as Doc.No.595/2006. The petitioner obtained Patta in his favour, vide Patta No.5968. Subsequently, out of 75 cents, the petitioner settled 25 cents each to his father, mother and brother, by virtue of three registered settlement deeds and retained 25 cents in his favour, thereby, joint Patta No.9076 has also been issued in their favour. The learned counsel further submitted that the fifth respondent herein, who is the daughter of said R.Kamalakannan gave a complaint dated 03.08.2022 to the Registering authority seeking to cancel the Sale deed dated 10.02.2006 that was executed by R.Ramakrishnan Naicker and Suseela, in favour of the petitioner and also the subsequent settlement deeds. Subsequently, the District Registrar cancelled the said documents by invoking Section 77-A of the Registration Act, 1908 [hereinafter referred to as 'the Act']. Challenging

the same, the petitioner preferred an appeal before the Inspector General of Registration under Section 77-B of the Act. Subsequently, the fifth respondent gave a complaint dated 15.11.2022 to the third respondent, for cancellation of Patta that stood in the name of the petitioner and his family members.

3. The main contention of the learned counsel for the petitioner is that the impugned order of cancellation was made without following the principles of natural justice. Based on the complaint given by the fifth respondent herein, the fourth respondent/Tahsildhar, without putting the petitioner on notice, conducted enquiry and forwarded a report to the third respondent/Revenue Divisional Officer, only based on the submissions made by the fifth respondent. The third respondent, without giving notice to the petitioner and without proper enquiry, passed the impugned order by cancelling the Patta in the name of the petitioner and his family members. Therefore, the order impugned is liable to be set aside.

4. The learned Additional Government Pleader appearing for respondents 1 to 4, by referring to the counter affidavit filed by the third

respondent, submitted that upon the complaint of the fifth respondent dated 15.11.2022, seeking for cancellation of Patta that stood in the name of the petitioner and his family members, which had been obtained pursuant to the forged and fabricated documents, the fourth respondent/Tahsildar sent a notice dated 06.02.2023 to the petitioner and his family members to appear for the enquiry scheduled on 21.02.2023. The petitioner also participated in the enquiry and made his objections, and thereafter, the fourth respondent sent a report dated 08.06.2023 to the third respondent. Thereafter, the third respondent passed the impugned order. Therefore, no prejudice would be caused to the petitioner.

5. The learned Additional Government Pleader further contended that, as on the date of passing the impugned order dated 29.12.2023, the petitioner has no legal right or title in respect of the subject property, as the District Registrar has cancelled the Sale Deed and subsequent settlement deeds by invoking Section 77-A of the Act, vide proceedings dated

29.09.2023. Challenging the order dated 29.09.2023, the petitioner has already preferred an appeal before the Inspector General of Registration by invoking Section 77-B of the Act and the same is pending.

6. The learned Senior Counsel appearing for the fifth respondent submitted that the third respondent had passed the impugned order only after giving due opportunity of hearing to the petitioner and also considering the report of the fourth respondent, dated 08.06.2023. He further submitted that though the petitioner has created forged documents and registered the sale deed and subsequently even the settlement deeds, the same were cancelled by the competent authority by invoking Section 77-A of the Act. As against the said cancellation, the petitioner has filed an appeal by invoking Section 77-B of the Act. Therefore, denial of opportunity is not sustainable, and both the Registering authority as well as the Revenue authority had given opportunity of hearing to the petitioner to make his submissions. The third respondent has rightly cancelled the Patta that stood in the name of the petitioner and his family members, as the

petitioner obtained joint patta in respect of the subject property by submitting forged documents.

7. Heard both sides and perused the materials available on record.

8. On a perusal of the records, it is seen that though the third respondent independently summoned the fifth respondent alone and recorded her submissions, the dispute was discussed in the impugned order, however, the third respondent without putting the petitioner on notice, passed the impugned order. The authority concerned, who received a complaint may give equal opportunity to both the parties, however, in the present case, it was not done. Since there is a violation of principles of natural justice, the impugned order is liable to be set aside.

9. In view of the above facts and circumstances and also considering the submissions made by learned counsel on either side, the impugned order dated 29.12.2023 passed by the third respondent is set aside and the writ petition is allowed. Consequently, the matter is remitted back to the third

respondent/RDO for fresh consideration. Accordingly, the third respondent is directed to decide the matter on merits and pass appropriate orders in accordance with law as early as possible, after affording due opportunity of hearing to the petitioner as well as interested parties/aggrieved parties/rival claimants if any. There shall be no order as to costs.

05.03.2024

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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P.VELMURUGAN, J.
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