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W.P.No. 5206 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE P. VELMURUGAN

W.P.No. 5206 of 2018

K. Punniyaseelan

..Petitioner

Versus

1. The District Collector
Perambalur Collectorate
Perambalur.

2. The District Revenue Officer
Perambalur District

3.The Revenue Divisional Officer
Perambalur.

4. Mosque Wakf (Jamia Pallivasal) Trust,
Arumbavur Post, Reg. No. G.S.No. 447
Perambalur District.

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the 1st respondent to dispose of the petitioner's representation dated 21.06.2016 and issue a separate patta to the property an extent of 13 cents in total extent of 36 cents comprised in Survey No. 579/1, Arumbavur Village, Perambalur Taluk, Perambalur District in favour of the petitioner.



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For Petitioner : Mr.K.Varsha
For RR1 to 3 : Mr.T.Arunkumar
Additional Government Pleader
For R4 : Mr.R.Sethuvarayar

ORDER

This writ petition is filed for issuance of Writ of Mandamus directing the 1st respondent to dispose of the petitioner's representation dated 21.06.2016 and issue a separate Patta to the property of an extent of 13 cents in total extent of 36 cents, comprised in Survey No. 579/1, Arumbavur Village, Perambalur Taluk, Perambalur District in favour of the petitioner.

2. The case of the petitioner is that he is the absolute owner of the property measuring an extent of 13 cents in total extent of 36 cents comprised in Survey No. 579/1, Arumbavur Village, Perambalur Taluk, Perambalur District. Originally, the property belongs to one Ram Moopar. The said Ram Moopar alienated the property in favour of the petitioner's father Krishnasamy through Document No.561 of 1927 on the file of Sub Registrar Office, Perambalur. The petitioner's father Krishnasamy allotted the property in his favour through Partition Deed Doc.No. 1516 of 2000



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and he is in possession and enjoyment of the property. In the circumstances, UDR Scheme was introduced in the year 1982, the Revenue Authorities annexed the petitioner's land measuring an extent 13 cents with the Mosque property, measuring an extent of 23 cents and the Revenue Authorities issued Patta No. 1735 for the Mosque property in favour of the 4th respondent in the petitioner's absence. Immediately, the petitioner made a representation before the 3rd respondent requesting separate Patta. But, the 3rd respondent instead of issuing separate Patta in the petitioner's favour, included the petitioner's name as Joint Patta Holder in Patta No. 1735 in his proceedings No. Na.Ka.A4/2864/2006, dated 13.07.2007. Then, the 4th respondent preferred an appeal before the 2nd respondent on 12.09.2007 and the 2nd respondent has also considered the appeal filed by the 4th respondent. Even not satisfied with the order by the 2nd respondent, the 4th respondent filed a writ petition before this Court seeking a direction in W.P.No. 2647 of 2008 on 19.10.2011. As per the direction of this Court, the 4th respondent had not initiated any appeal proceedings regarding the property. In the circumstances, the 4th respondent is trying to trespass and seize the petitioner's property along with the Mosque property. In this regard, the petitioner made a representation before the 1st respondent dated 21.06.2016. Till date, the



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1st respondent has not considered the petitioner's representation.

Therefore, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

3. The learned Counsel for the petitioner submitted that he purchased the property and his family members continued to be in possession and enjoyment of the property, but, however, the petitioner has approached the Revenue Authorities for issuance of Patta in his name and therefore, the petitioner has filed the present writ petition.

4. The learned Counsel for the 4th respondent submitted that already, the petitioner approached the Revenue Authority, namely, 2nd respondent/District Revenue Officer, but, once again the petitioner has filed the second round of litigation and he has challenged the order passed by the Revenue Authorities and he cannot file writ of mandamus and therefore, the respondents prayed to dismiss the above writ petition.

5. Originally, the land belongs to the Mosque Wakf (Jamia Pallivasal) Trust, but, however, considering the possession made by the Revenue Authorities, the petitioner seeks separate Patta, and since it is the



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property of Wakf Board, the petitioner is not entitled to get Patta and if at all, he can only protect his possession in the manner known to law and no title can be granted against the Wakf Board property to the petitioner. However, if the petitioner feels that the property is a Wakf Board property and the property is not a self-acquired property, the petitioner has to approach the Competent Civil Court for declaration of title, but not before the Writ Court and the Writ Court cannot conduct roving enquiry. Therefore, this is out of scope of Article 226 of the Constitution of India.

6. Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy before the Competent Civil Forum in the manner known to law. No costs.

12.03.2024

Index:Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
MSM



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To

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P, VELMURUGAN, J

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