IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.20935 of 2017
and
W.M.P. Nos.21823 to 21825

D. Dhanavel ..... Petitioner

vs.

1. The Commissioner,
Ranipet Municipality,
Vellore District.

2. The Muthavalli,
Navalpur Jamiya Masjit
Ranipet,
Vellore District. .... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the proceeding in Na.Ka. No.3063/2015/A1, dated 22.06.2017 issued by the 1st respondent and quash the same and consequently forbearing the respondents from disturbing the petitioner's possession of the property comprised of T.S. No.113 and 116 in Ward No.B, Block No.6, measuring about 1748 sq. ft. situated at Door No.35A/2, M.P.T. Road, Ranipet, Vellore District.

For Petitioner : Mr.G. Pugazhenthi

For Respondents : No appearance

ORDER

This writ petition has been filed to call for the records pertaining to the proceeding in Na.Ka. No.3063/2015/A1, dated 22.06.2017 issued by the 1st respondent and quash the same and consequently forbearing the respondents from disturbing the petitioner's possession of the property comprised of T.S. No.113 and 116 in Ward No.B, Block No.6, measuring about 1748 sq. ft. situated at Door No.35A/2, M.P.T. Road, Ranipet, Vellore District.

2. It is stated that the petitioner is possession and enjoyment of the aforesaid property, which was under the category of Minor Inam and later converted into Natham Poramboke land and patta bearing No.16 was issued in favour of Haheem Abdulram Sayabu. After the death of said Sayabu, who died leaving behind no legal heirs, the ownership of the property was changed in the name of Navalpur Jamiya Masjit. When that be so, the petitioner submitted a representation, dated 22.08.2015 to the respondents seeking for patta in respect of the said property. Consequent to which, the Tahsildar, vide his order, dated 15.11.2015 rejection the petitioner's application stating the reasons that the patta stands in the name

of Masjit. Aggrieved over the said order, he preferred an appeal before the Revenue Divisional Officer, who in turn, rejected the said appeal vide Proceedings, dated 26.12.2016. Thereafter, he filed a revision petition before the District Revenue Officer on 18.01.2017. Though, the District Revenue Officer issued notice dated 24.04.2016 to the petitioner, thereby directed him to appear for an enquiry on 05.05.2017, subsequently, no enquiry was conducted. Suddenly, the Tahsildar of Valaja Taluk issued notices on 24.04.2017 and on 10.05.2017 under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905 to remove the encroachment of the said property. Challenging the aforesaid notices, he filed writ petition in W.P. No.12987 of 2017 and the same was disposed of on 17.05.2017 with a direction to prefer an appeal under Section 10 of Tamil Nadu Land Encroachment Act, 1905. Thereafter, he preferred an Appeal on 18.05.2017 before the 1st respondent. In such circumstances, the 1st respondent issued the impugned proceedings, dated 22.06.2017, cancelling the assessment of property tax in respect of the said property. Aggrieved over the said proceedings, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that suit in O.S. No.289 of 2015 is pending on the file of Wakf Tribunal, without knowing

the fact, the impugned proceedings was passed by the 1st respondent, which is illegal and arbitrary. He placed a case status report of the Principal Sub Judge, Vellore in respect of the suit in O.S. No.289 of 2015, which was subsequently transferred to Wakf Tribunal, Chennai vide their Court, Proceedings, dated 31.10.2019. He also submitted that the petitioner was neither a party to the said suit nor he filed any other suit. He further submitted prior to issuance of cancellation of assessment of property tax, by way of impugned proceedings, the 1st respondent failed to issue notice. Hence, he submitted that opportunity of hearing was not afforded to the petitioner, which is a violation of principles of natural justice. He mainly contended that during the pendency of the suit O.S. No.289 of 2015 before the Wakf Tribunal, the impugned proceedings was issued by the 1st respondent treating the suit was disposed of. Hence, he submitted that the property tax assessment cancelled by the 1st respondent by way of impugned proceedings, dated 22.06.2017 is unsustainable and therefore prays for issuance of appropriate orders in the above regard.

4. Heard the learned counsel for the petitioner and despite service of notice, there is no representation on the side of the respondents.

5. From the submissions made by the learned counsel for the

petitioner, it is seen that the suit in O.S. No.289 of 2015 was transferred and pending before the Wakf Tribunal, Chennai and it is not in the Sub-Court, Vellore. Therefore, it is the contention of the petitioner that till date, no adverse orders was passed against the petitioner in the aforesaid suit. From the aforesaid submissions, it is clear that the petitioner himself admitted that he does not posses title of the subject property. When that be the situation, this Court is unable to understand on what capacity the petitioner occupied the subject property and agitating his claim. On a perusal of records, it er reveals that the petitioner filed an application before the Tahsildar for issuance of patta, which was rejected, subsequently, he approached the appellate authority, who in turn, confirmed the orders passed by the Tahsildar. Moreover, the petitioner proceeded further before the revisional authority. So at this juncture, he cannot claim any right over the property stating the pendency of D.R.O. proceedings. It is further noted that without any patta, the petitioner obtained property tax certificate, which was cancelled by the 1st respondent, in which, this Court is not inclined to interfere that too, at this stage.

6. In view of the aforesaid reasonings, the prayer sought for in this

writ petition cannot be granted by this Court. Accordingly, this writ petition stands dismissed. However, if the petitioner succeeded before the revsional authority, he is granted liberty to file an application before the 1st respondent for assessment of property tax. It is made clear that till such time, the petitioner is not entitled to claim right over the subject property. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2024

Index : Yes / No
vsi2

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M.DHANDAPANI, J.

vsi2

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