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W.P.No. 28963 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE P. VELMURUGAN

W.P.No. 28963 of 2019

and

WMP.No. 28710 of 2019

M.CT. Pethachi

..Petitioner

Versus

1. The District Collector
Chennai District
Chennai - 600 001.

2. The Revenue Divisional Officer
South Chennai Revenue Division
Guindy, Chennai - 600 032.

3. The Tahsildar
Mylapore - Triplicane Division,
Chennai - 600 028.

4.P. Elango

5.K.C. Veeramani

6.J.Narayanan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records comprised in P.No. A1/744/2019, dated 19.09.2019 on the file of the 2nd respondent, quash the same as illegal and arbitrary exercise of power.



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For Petitioner : Mr. V. Ayyadurai
Senior Advocate

For RR1 to 3 : Mr.T.Arunkumar
Additional Government Pleader

For R4 : Mr.N. Damodaran

For R5 : Mr.A.E. Ravichandran

ORDER

This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus to quash the order in P.No. A1/744/2019, dated 19.09.2019 on the file of the 2nd respondent and quash the same as illegal and arbitrary exercise of power.

2. The case of the petitioner is that his father, namely, M.CT.M. Chidambaram Chettiar had purchased various extent of lands which formed part of a larger extent of lands in R.S.No. 4573/4, Mylapore-Triplicane Taluk, by way of sale deeds from 1930 to 1944. After his demise, the petitioner became the absolute owner of the properties. While that being the case, the 4th respondent filed a suit in O.S.No. 5156/2005 before the XII Assistant City Civil Court, Chennai against the defendants and the suit was dismissed on 30.11.2007. During the pendency of the



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suit proceedings, the 2nd defendant had sold the property to one K.Anandan on 25.01.2007. Thereafter, the petitioner had entered into a Memorandum of Understanding on 02.08.2007 with the 2nd defendant, against which, the 4th respondent preferred an appeal in AS.No.394/2009 before the I Additional City Civil Court, Chennai, and the order passed in the said appeal has attained finality. Apart from that, K.Anandan created a simple mortgage in favour of one D.Brahmanandan on 04.02.2016, and a suit was filed in O.S.No.2069/2017 before VIII Assistant City Civil Court, Chennai against the defendants 1 & 2 for permanent injunction and the ex-parte decree was passed on 25.04.2018. By suppressing the earlier suit filed by the 4th defendant, a suit in O.S.No. 2328/2019 was filed by the 4th respondent before XIV Assistant City Civil Court, Chennai on 01.04.2019 against the petitioner seeking permanent injunction. Hence, the 4th respondent made a representation dated 04.04.2019 to the 2nd respondent and he had also filed a writ petition in WP.No. 13125/2019 against the petitioner. The present impugned order dated 19.09.2019 was received on 24.09.2019, whereunder the Patta granted to the petitioner in TR/210/Myl/63, dated 06.11.63 R.S.No. 4573/5,20,31,35 clubbed with R.S.No. 4573/4/TR dated 11.08.2016, was cancelled based on the representation dated 04.04.2019 by the 4th respondent. The 5th



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respondent had begotten the property in S.No. 4573/6, R.S.No. 4573/92, RS.No.4585/1, Old No.9/1-1, 27, New No. 21/1, Leith Castle North Road by way of settlement deed dated 16.06.2017 in Doc.No. 1842/2017. The 5th respondent made a representation dated 19.08.2019, the order has been passed on 19.09.2019. When the 4th respondent had already filed WP.No. 13125/2019 seeking to issue a writ of mandamus against the respondents 1 & 2 to re-survey S.No. 4573/4 and recover and restore No.2 Road which was originally approved as a Road in the lay-out, and the 4th respondent, suppressing the above facts, has also made a representation to the 4th respondent for the very same relief. The petitioner submits that it is quite unclear as to how the 2nd respondent had passed the order cancelling the Patta, when it is actually the 3rd respondent who is the competent authority under Section 10 of the Tamil Nadu Patta Pass Book Act, 1983 to make modification of entries in the Patta, whereas, in the present case, the 2nd respondent has not even chosen to give enough opportunity to produce the documents, but however, he has proceeded to pass an order adverse to the interest of the petitioner, which is totally unacceptable. Since the order passed by the 2nd respondent is wholly without jurisdiction, the only remedy open for the petitioner is to file the present writ petition. Therefore, the petitioner has come forward with the present



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writ petition.
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3. Heard both sides and perused the records.

4. It is seen that the second respondent passed the order, since there was some extent mentioned in the Patta as per the Revenue Documents. However, there is a civil suit in O.S.No.2328 of 2019 before XIV Assistant City Civil Court, Chennai, for permanent injunction and the same is pending. Therefore, the 2nd respondent states that after the outcome of the Civil Suit, the 3rd respondent/Tahsildar may proceed further. Therefore, the petitioner is not prejudiced as he is the party to the proceedings. When the civil suit is pending, the Civil Court is a competent Forum to decide the right or title and enjoyment of the property, not either by the Revenue Authority or the writ Court.

5. Under these circumstances, this Court does not find any perversity in the impugned order passed by the second respondent/Revenue Divisional Officer. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed. However, the petitioner is at liberty to work out his remedy before the competent Civil



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6. Accordingly, the writ petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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

To

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P, VELMURUGAN, J

MSM

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