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W.P.No.29057 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.29057 of 2019
and
W.M.P.No.28839 of 2019

P.Krishnamoorthy

...Petitioner

-Vs-

1.The District Revenue Officer,
Namakkal,
Namakkal District.

2.The Revenue Divisional Officer,
Namakkal,
Namakkal District.

3.The Tahsildar,
Namakkal,
Namakkal District.

4.Periyasamy (aged 59 years)

5.K.C.Kanagaraj (aged 66 years)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus calling for the records relating to Pa.Mu.27085/2018[01] dated 30.11.2018 on the file of the District Revenue Officer, Namakkal and quash the same and pass such further orders.



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For Petitioner : Mr.R.T.Vishnu,
for Mr.M.Neelakandan

For R1 to R3 : M/s.R.L.Karthika
Government Advocate

For R4 : No appearance

For R5 : Mr.N.Umapathy

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus calling for the records relating to Pa.Mu.27085/2018[01] dated 30.11.2018 on the file of the District Revenue Officer, Namakkal, and quash the same.

2. The facts of the case in a nutshell:-

2.1 The land measuring 924 sq. ft. in Old Survey No.206/100 in Kathiranallur Village has been in the possession of the petitioner's Grandfather, Mr.Nallappa Gounder. He was also paying Property tax receipts from the year 1963. After the death of the petitioner's Grandfather, Mr. Nallappa Gounder, a Manaivari Patta dated 30.03.1992 was issued for the said land in the name of his father, Mr.Periyanna Gounder, Son of Nallappa



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Gounder in Manaivari Patta No.78, Village No.120, New Grama Natham Survey No. 331/13 and had been residing therein, in a house constructed thereon. From 1963, his ancestors have traditionally taken possession and care of Mariamman Temple Jewellery during Thiruvizha (Temple Festival). While so, his father, Mr.Periyanna Gounder died on 18.10.1993. The said land in Patta No.78, Village No.120, New Grama Natham Survey No. 331/13 was in joint possession of the petitioner and his mother, Mrs.Karuppaiammal. The petitioner's mother, Mrs. Karuppaiammal and his sister, Mrs.Namagiri released their rights in the said property in his favour by a Release Deed dated 12.12.2000 registered as Document No.1160 of 2000 at SRO Puduchathiram. The petitioner paying Property Tax for the said property till the period 2017-2018.

2.2 While so, respondents 4 and 5 made a false complaint to the District Revenue Officer stating that the said property belongs to the Mariamman Temple. The District Revenue Officer, without giving any notice to the petitioner, passed the Impugned Order thereon, cancelling his Patta. It has been alleged in the impugned proceedings that the fifth respondent was enquired on 24.04.2008 and the alleged date of complaint made by the fourth respondent has not been stated therein or informed to the petitioner in any



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manner.

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2.3 The said impugned proceedings has been passed by the District Revenue Officer by suppressing the Manaivari Patta in the petitioner's father's name and it has been falsely stated during the alleged enquiry that the patta has been allotted to his mother, Mrs.Karuppayi Ammal only on 17.05.2007. It has also been stated falsely to the District Revenue Officer by the fourth respondent that the Patta in HSD/1688/92 dated 06.02.2009 in the name of Natarajan. The impugned order has been passed based on the said false information and without enquiring with either the petitioner or any residents of Kathiranallur Village.

2.4 On the other hand, the petitioner's mother made a complaint to the Inspector of Police, Nallur Police Station. The Police Authorities made a proper enquiry therein on 27.07.2011 and found that his mother, Mrs. Karuppai has all documents relating to the said property and the fifth respondent does not have any document to prove his claim. Further, the residents of Kathiranallur Village also submitted a Muchalikkai dated 10.04.2009, stating clearly that the property in Patta No.78, Village No.120, New Grama Natham Survey No. 331/13 belongs to the petitioner and his



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mother and that the Temple or respondents 4 and 5 do not have title, claim or possession of the said property. Aggrieved by the same, the petitioner has approached this Court by way of filing this writ petition.

3. Learned counsel appearing for the petitioner submitted that respondents 4 and 5 with the connivance of the Government Authorities, obtained the impugned order behind his back, without giving notice to the petitioner and against the principles of Natural Justice. The District Revenue Officer illegally passed the impugned order dated 30.11.2018 and though no notice was sent to the petitioner or to his mother before the proceedings sent a copy of the impugned order to the petitioner. Therefore, the petitioner made a representation dated 20.12.2018 to the District Collector and all the respondents herein, stating the true facts and requesting to issue Permanent Patta in the name of his mother, Mrs.Karuppayi.

4. On perusal of the impugned order dated 30.11.2018, it is also evident that no opportunity was given as contended by the learned counsel for the petitioner.

5. A counter affidavit was filed on behalf of respondents 1 to 3 on



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10.01.2020.

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6. Learned Government Advocate appearing for respondents 1 to 3 submitted that during Natham Settlement Scheme, Natham Patta No.78 was issued to N.Periyanna Kandar in the year 1993 and Ground Rent was levied as “Charge” for his occupation in the land. Later in the year 2007, on the death of pattadar N.Periyanna Kandar, patta was ordered to be transferred in the name of his wife Karuppayee as per order passed in PT.No. 1084/6.II/2007-2008 dated 17.5.2007. Learned Government Advocate further submits that one K.C.Periyasamy S/o.Chinnachi Kandar of Kathiranallur village and another K.C.Kanagaraj S/o.Chinnachi Kandar of Kathiranallur village filed petitions on 23.04.2008 and 24.04.2008 respectively stating that the land in Natham Survey No.331/13 measuring 66 square metres consists of “Arulmighu Mariamman Kovil House” and “public Pathway” but patta has been wrongly issued in the name of Karuppayee W/o Periyanna Kandar and that it therefore may be cancelled.

7. Learned Government Advocate further submits that during inspection of the land in Natham Survey No.331/13, it was revealed that the alleged place of Karuppayee W/o.Periyanna Kandar is in dilapidated condition and it consists of Mariamman Kovil House and vacant site and that



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Karuppayee who obtained Natham Patta on 29.01.1993 during Natham Settlement Scheme and Natarajan S/o.Periyasamy prior to the Natham Settlement Scheme on 23.03.1983 also left the village about 10 years back.

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

9. In view of the above submission made by the learned counsel on either side, the impugned order passed by the first respondent dated 30.11.2018 is liable to be set aside and this Court remits the matter back to the first respondent for a fresh consideration after giving due notice to both parties, affording an opportunity of personal hearing to the petitioner as well as rival claimants/interested parties if any, to take into consideration all the relevant documents submitted by the parties in regard to the subject matter property and pass appropriate orders on merits, in accordance with law thereby following the above principles of

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natural justice within a period of three months from the date of receipt of a copy of this order.

In the result, the writ petition stands allowed with the above



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observation and direction. No costs. Consequently, connected
miscellaneous petition is closed.

13.06.2024

cda

Index : Yes/No

Speaking/Non Speaking order

To

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Namakkal District.

2.The Revenue Divisional Officer,
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Namakkal District.

3.The Tahsildar,
Namakkal,
Namakkal District.

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