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WP.No.10215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.10215 of 2024 & WMP.No.11268 of 2024

K.Krishnamoorthy

.. Petitioner

Versus

1. The Commissioner of Survey and Settlement,
Survey House, 3rd Floor, Chepauk, Chennai – 600 005.

2. The Assistant Settlement Officer [South],
O/o.Commissioner of Survey and Settlement,
Survey House, 3rd Floor, Chepauk, Chennai – 600 005. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of first respondent in Na.Ka.12/2985/2021 dated 9.08.2023 confirming the proceedings of the second respondent in Na.Ka.I2/ 5214/ 2013 dated 29.06.2018 and quash the same as illegal arbitrary and unenforceable consequentially direct the issue of patta to the petitioner for S.No. 388 measuring 3.86 acres situated at Melpatty melmugham Village of Namakkal Vattam and District within the time to be stipulated by this Court.

For Petitioner : Mr.K.Vijayaraghavan

For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER



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With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition is filed to quash the impugned proceedings of the first respondent in Na.Ka.12/2985/2021 dated 9.08.2023 confirming the proceedings of the second respondent in Na.Ka.12/ 5214/ 2013 dated 29.06.2018 as illegal arbitrary and unenforceable and consequentially direct the respondents to issue patta to the petitioner for S.No.388 measuring 3.86 acres situated at Melpatty Melmugham Village of Namakkal Vattam and District within the time to be stipulated by this Court.

3. It is the case of the writ petitioner that the ancestors of the petitioner were originally in possession of the property in Thummankuruchi Village. The Village was taken by the Government under the provisions of Act 26 of 48. The petitioner has already filed a suit against the Government in O.S.No.148 of 2011 which was decreed and the same had reached finality. Therafter, as the representation of the petitioner has not been considered by the second respondent, the petitioner filed a Writ Petition in W.P.No.31877 of 2012 and this Court by an Order dated 03.12.2012 directed the respondent to to conduct enquiry and pass Orders. It is the further case of the petitioner that



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despite the evidence adduced by the petitioner, the impugned Order has been passed mainly on the ground that there is cart track in the suit property. Challenging the same, the present Writ Petition has been filed.

4. The learned counsel appearing for the petitioner submitted that even the proceedings of the Tahsildar in Na.Ka.22595/2013/B2, dated 24.02.2014 clearly show that there was no cart track in the property and the Village Administrative Officer has also given a report in this regard on 24.04.2014. Despite the above findings and the Civil Court decree in O.S.No.148 of 2011 on the file of the Sub Court Namakkal dated 03.04.2021, still the authorities are relying upon the entry in the 'A' Register and rejected the request made by the petitioner for issuance of patta.

5. Whereas, the learned Government Pleader would submit that as the petitioner had obtained decree against Government in O.S.No.448 of 2011, if the decree is produced before the officials, the Orders will be passed.

6. It is relevant to note that the suit in O.S.No.448 of 2011 has been filed for declaration and permanent injunction against the State of Tamilnadu and other revenue officials and the suit has been decreed in favour of the petitioner and enquiry has also been conducted by the authorities to issue patta.



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As already pointed out by the learned counsel for the petitioner, the Tahsildar in his proceedings dated 24.02.2014, letter addressed to the Deputy Commissioner of Land Administration indicate that there was no cart track in the subject property. Further in the suit it has been held that the petitioner is certainly entitled to change of revenue records in his favour. Without considering these aspects, merely on the basis of some entry in the 'A' register to the effect that there is cart track, the impugned Order has been passed. In fact, the report of the revenue officials clearly indicate that there is no cart track found in the subject property. In such view of the matter, the impugned Order has to be quashed.

7. Accordingly, this Writ Petition is allowed and the impugned Order dated 09.08.2023 of the first respondent stands quashed. Let the first respondent issue patta in favour of the petitioner as per the Civil Court decree in O.S.No.148 of 2011 on the file of the Sub Court, Namakkal within a period of two months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2024

vrc

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To,
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N. SATHISH KUMAR, J.

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