IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR, J.

W.P.No.30348 of 2024

V. Arumugham ... Petitioner

..Vs..

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The District Revenue Officer,
Cuddalore District.

3.The Revenue Divisional Officer,
Cuddalore.

4. The Tahsildar,
Kurinjipadi Taluk,
Cuddalore District.

5. The Secretary, Revenue Department,
Fort St.George,
Chennai – 600 009. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to call for the records on the file of the 2nd respondent pertaining to the Order in Na.Ka.No.V3/1161381/2023 dated 18.11.2023 and quash the same and consequently direct the 2nd respondent to consider the Representation of the petitioner dated 06.10.2023 and pass orders in accordance with law, within a time frame stipulated by this Court.

For Petitioner : Mr. Manuraj

For Respondents : Mr. S. J. Mohamed Sathik,
Government Advocate

ORDER

The present Writ Petition is filed challenging the Order passed by the second respondent on 08.11.2023 vide proceedings No.Na.Ka.V3/1161381/2023.

2. With the consent of the learned counsel for the petitioner and the learned Government Advocate for the respondents, the writ petition is taken up for final hearing.

3. The case of the Writ Petitioner is that the petitioner had purchased

the land in Old Survey No.166/8 in Abatharanapuram Village, Kurinjipadi Taluk, Cuddalore District from one Poongothai Ammal vide Document No.2103 of 1989 dated 14.12.1989 registered with the Office of the Sub Registrar, Vadalur. From the date of purchase of the suit schedule property i.e., from 14.12.1989, the petitioner has been cultivating groundnut, maize and other serials in the above land.

4. The Adangal extracts from the Village Administrative Office would show that the petitioner has continuously cultivated in the property in Old Survey No.166/8. The Patta was issued in the name of the petitioner to an extent of 56 cents of the land in Survey No.116/8. Originally, the Patta which stood to an extent of 56 cents of land in survey No.116/8 was reduced to an extent of 44 cents in Re-Survey No.117/17 and remains as 0.18.00 ares and thereby, the Patta bearing No.152 was issued without any prior notice to the petitioner with regard to the Re-Survey.

5. In respect of the lesser extent of patta issued, the petitioner had made a representation with the second respondent on 15.12.2022 pointing

out the defects found in the Re-Survey. The second respondent through its communication dated 19.01.2023 had intimated that the petitioner's application will be taken on file in file No.290/2022 and the second respondent has directed the fourth respondent herein to conduct a field inspection and to survey the land on 13.01.2023.

6. The fourth respondent vide his letter dated 09.01.2023 directed the petitioner and the neighboring land owners to be present at the time of field inspection and the said exercise was completed on 13.01.2023. The fourth respondent, vide his letter dated 31.05.2023 in Na.Ka.Aa.3/795/2023, has recommended that necessary corrections to be made in the revenue records by granting 55.57 cents in favour of the petitioner. The fourth respondent through his letter dated 03.06.2023 in Na.Ka.Aa.3/1520/2023, made his recommendation to the first respondent to issue Patta in the name of the petitioner for an extent of 55.57 cents.

7. The second respondent issued summons on 08.09.2023 in Na.Ka.No.V3/1161381/2023 directing the petitioner to appear in person for enquiry along with original records on 14.09.2023. The petitioner had

participated in the enquiry and submitted all the relevant documents as requested and also submitted all the original documents to establish that the petitioner is the absolute owner of the property in Old Survey No.116/8.

8. The petitioner had filed Writ Petition in W.P.No.30984 of 2023 seeking Writ of Mandamus praying to direct the second respondent to carryout corrections from 0.18.0 ares [44.46 cents] to 0.22.5 Ares [55.57 cents] in the revenue records of the respondent in respect of New Survey No.117/17 as recommended by the fourth respondent in Na.Ka.Aa 3/1520/2023 dated 03.06.2023 and consequently direct the fourth respondent to grant Patta within the time scheduled by this Court.

9. In the above said writ petition filed by the petitioner herein, this Court by order dated 26.10.2023, directed the second respondent to pass final orders on the application made by the petitioner dated 15.12.2022 in accordance with law, within a period of four weeks from the date of receipt of a copy of the said order. In spite of the order passed by this Court in W.P.No.30984 of 2023, the second respondent did not pass any orders.

10. Pursuant to the direction of this court, the second respondent while passing the impugned order on 18.11.2023, in Na.Ka.V3/1161381/2023 had recorded the statement that the petitioner is the owner of the property by virtue of the registered Sale deed No.2103/1989 dated 14.12.1989 in Old Survey No.116/8 and the Re-Survey No.117/17. Further, the second respondent in the impugned order, quoted the pendency of a Civil Suit filed by a third party, which has been enclosed in the type set of papers.

11. The above said suit was filed before the Sub Court, Neyveli in O.S.No.388 of 2023 by the plaintiffs namely Panjavarnam, Selvarasu, Vasuki, Santhi, Arumugam, Elumalai, Elayaperumal against the defendants namely Arumugam, the present petitioner herein Poongodhai Ammal, Palanisamy, Village Administrative Officer, Tahsildar, Kurinjipadi, Revenue Divisional Officer, Cuddalore, District Revenue Officer, Cuddalore, District Collector, Cuddalore. The above suit is filed for bare injunction and for declaration. The plaintiff in the suit has relied upon Patta

No.408, dated 19.09.1991 and the Sale deed dated 20.02.2018.

12. From the pleadings averred by the plaintiffs, it is seen that the suit schedule property is situated in Old Survey No.175/11 and New survey No.126/4 to an extent of 0.31.0 Ares i.e., 0.76 ½ cents. The plaintiffs in the suit had contended that the property in New Survey No.117/17 and Old Survey No.166/8 to an extent of 0.18.0 Ares of land that is 0.44 ½ cents, originally belonged to one Sivaprakasam and one Poongothai Ammal W/o Sivaprakasam, and they are the absolute owners of the property. The first and second defendants in the suit had executed a power in favour of the first plaintiff in the said suit.

13. It is seen from the details of the suit enclosed in the typed set of papers, the plaintiffs have not enclosed any documents relating to the New Survey No.117/17 and the Old Survey No.116/8. Per contra, the plaintiffs had only relied upon Patta No.408, and the Copy of the Sale deed, dated 19.09.1991 and the Xerox Copy of the Death Certificate, dated 20.02.2018 and the Xerox Copy of the Legal heirship Certificate, dated 02.06.2017.

14. The specific contention of the writ petitioner before the second respondent is that the plaintiffs' in the aforesaid suit have no authority or right over the property in Old Survey No.166/8 and New Survey No.117/17. It is pertinent to note that based on the recommendations made by the Tahsildar in the original enquiry, on 03.06.2023, the Revenue Divisional Officer made his recommendation dated 17.07.2023 and the second respondent passed an impugned order dated 18.11.2023.

15. It is evident that the second respondent had taken note of the suit filed by the third parties, who have no right or authority in the land in Old Survey No.166/8 and in New Survey No.117/17. The impugned order is without jurisdiction and has been passed with malicious intention by referring to the suit, which is no way related to the petitioner.

16. In view of the above findings, the impugned order dated 18.11.2023 passed by the second respondent is hereby quashed. The Order passed by the Revenue Divisional Officer/R3 in Na.Ka.A7/795/2023 dated

17.07.2023 is hereby restored. The Writ Petition is allowed. The respondents are directed to issue Patta to the petitioner, forthwith. No costs.

09.10.2024

ssi
Index : Yes
Internet : Yes
Neutral Citation Case: Yes/No

To:

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The District Revenue Officer,
Cuddalore District.

3.The Revenue Divisional Officer,
Cuddalore.

4. The Tahsildar,
Kurinjipadi Taluk,

Cuddalore District.

5. The Secretary, Revenue Department,
   Fort St.George,
   Chennai – 600 009.

N.SENTHILKUMAR, J.,

ssi

W.P.No.30348 of 2024

09.10.2024