



WEB COPY



W.P.No.33495 of 2024,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.33495 of 2024
and
W.M.P.No. 36265 of 2024

Mrs.S.Govindammal

... Petitioner

Vs.

1.The District Collector Of Villupuram
Collectorate, Villupuram

2.The District Revenue Officer
Collectorate, Villupuram

3.The Sub Collector Of Villupuram District
Office Of The Sub Collectors Office,
Tindivanam, Villupuram District

4.The Zonal Deputy Tahsildar
Gingee Taluk, Villupuram District

5.The Revenue Tahsildar, Taluk Office
Gingee, Gingee Taluk, Villupuram District

6.B.Manikandan

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 4th Respondent to cancel the patta No. 63 issued under Ref. No 2024 / 0109 / 012235 and



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2024 / 0109 / 012236 dated 19.09.2024 respectively issued in the name of Kulasekaran, the deceased grandfather of the 6th respondent, from petitioner name for the lands measuring 0.88.0 Ares, comprised in S. No 17 / 6B3B situated in Pallikulam village, Vallam P.O., Gingee Taluk, Villupuram district and pass such further or other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

For Petitioner : M/s.T.Dhanasekaran

For Respondents : M/s.A.Selvendran, Special GP
for R.1 to R.5

ORDER

The Writ Petition is filed for the following reliefs:

"directing the 4th Respondent to cancel the patta No. 63 issued under Ref. No 2024 / 0109 / 012235 and 2024 / 0109 / 012236 dated 19.09.2024 respectively issued in the name of Kulasekaran, the deceased grandfather of the 6th respondent, from petitioner name for the lands measuring 0.88.0 Ares, comprised in S. No 17 / 6B3B situated in Pallikulam village, Vallam P.O., Gingee Taluk, Villupuram District"

2. The petitioner would submit that she is the absolute owner of the following properties:- (i) lands measuring 0.88.0 Hectares, comprised in S.No.17/6B6B & Patta No.522, (ii) lands measuring 0.26.5 Hectares, comprised in S.No.17/6B1 & Patta No.516 and (iii) lands measuring 0.6.5



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Hectares, comprised in S.No.17/6B3A & Patta No.1003. Out of these lands an extent of 3 acres and 16 cents comprised in S.No.17/6, 17 cents have been acquired for road purposes and she is in possession and enjoyment of the remaining lands measuring 2.99 Acres in S.No.17/6. As the 6th respondent's father was causing trouble to the petitioner in her enjoyment of the property and apprehending the change of patta in his name, the petitioner had filed W.P.No.27232 of 2013, before this Court to direct the respondents 1 to 3 to issue prior notice to her when considering any application for changing of patta submitted by the 6th respondent in respect of an extent of 2 acres and 17 cent in S.No.17/6B/3B. Recording the submissions of the learned Special Government Pleader, this Court had dismissed the Writ Petition by order dated 04.11.2019.

3. Thereafter, the petitioner by a registered sale deed had settled one of her properties measuring 1.88 acres out of 2.17 acres, comprised in S.No.17/6B3B in favour of his husband T.Natarajan. After this settlement, the 6th respondent and his father were trying to change patta in their favour in respect of the subject property. They have also made a petition before the respondents 1 and 5 for change of patta. Thereafter, the 5th respondent by his proceedings dated 08.08.2022 called upon the petitioner as well as the 6th respondent to appear for an enquiry. Challenging the said proceedings,



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the petitioner and her husband had filed W.P.No.29648 of 2024. The said

Writ Petition was dismissed by this Court on 09.11.2022 with liberty to the petitioner to file an appropriate objection before the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. On such receipt, the 3rd respondent is directed to conduct an enquiry in the matter after affording an opportunity of hearing to both the petitioners and the 4th respondent and pass appropriate orders on merits and in accordance with law.

4. After the order passed in W.P.No.29648 of 2022, the 4th respondent conducted an enquiry on 16.05.2023 and passed orders on 30.05.2023 in and by which he had wrongly recommended to the 3rd respondent (i) to change the patta no.173 from the name of Mrs.Pattammal (petitioner's mother) to the name of the Commissioner, Panchayat Union, Vallam and (ii) to cancel the patta no.16 and 522 standing in the name of the petitioner and transfer the same to the name of the deceased Kulasekaran or their legal heirs. Aggrieved by the same, the petitioner had preferred an appeal before the respondents 1 and 2 on 05.06.2023. Thereupon, the 3rd respondent had conducted an enquiry. The petitioner had participated in the said enquiry and submitted her detailed representation to the 3rd respondent on 13.10.2023. Since the petitioner's



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representations have not been considered, she had filed W.P.No.33337 of 2023 to quash the order dated 30.05.2023 and the same was dismissed on 01.03.2024 with a direction to the 3rd respondent herein to dispose of the petitioner's appeal on merits and in accordance with law, after giving due opportunity of hearing to the interested parties. Thereupon, the 3rd respondent by order dated 12.08.2024 had cancelled the patta standing in the name of the petitioner and transfer the same in the name of the 6th respondent's grandfather. Challenging the same, the petitioner had preferred an appeal before the 2nd respondent. Despite the objections submitted by the petitioner and the appeal pending before the 2nd respondent, the 4th respondent had passed the impugned order on 19.09.2024 in and by which the 4th respondent had transferred the patta nos.16 and 522 from the name of the petitioner for the lands measuring 0.26.5 ares, comprised in S.No.17/6B1 and the lands measuring 0.88.0 ares, comprised in S.No.17/B3B to the name of Kulasekaran, the grandfather of the 6th respondent and issued a fresh patta no.63. Challenging the same, the petitioner is before this Court.

5. Heard the learned counsels on either side.



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6. A mere perusal of the impugned order would clearly show that the same has been passed without any notice to the petitioner and pending the various proceedings. That apart, the 4th respondent has passed the impugned order without waiting for the outcome of the appeal filed by the petitioner before the 2nd respondent. Therefore, the same cannot be sustained.

7. In the result, the Writ Petition is allowed and the impugned order is set aside. A mandamus is issued to the 4th respondent to cancel the patta no.63 issued in the name of the 6th respondent's grandfather and restore the patta back in the name of the petitioner forthwith and the 2nd respondent shall dispose of the appeal filed by the petitioner. Till such disposal, there shall be no mutation or transfer in respect of the revenue records or patta in respect of the subject property. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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