



W.P.(MD) No.24759 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.24759 of 2024

S.Nagasubramanian

.. Petitioner

Vs.

1.The District Revenue Officer,
Thanjavur.

2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.

3.The Tahsildar,
Kumbakonam,
Thanjavur District.

4.S.Jayaraj

5.S.Panneerselvam

6.S.Mala

7.S.Jayakumar

8.S.Sivakumar

9.P.Sambantham

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to cancel the survey subdivisions in Survey Nos.229/71, 229/72, 229/73, 229/74, 229/75 and 229/37 and restore Survey No. 229/20, Sarvamanya Street, Swamimalai Village, Kumbakonam Taluk, Thanjavur District to its original status and grant patta in the name of the petitioner.

For Petitioner : Mr.J.Barathan
For R1 – R3 : Mr.P.Thambidurai
Government Advocate

ORDER

The petitioner has filed the above writ petition seeking a mandamus to the respondents 1 to 3 to cancel the subdivisions made in Survey Nos.229/71, 229/72, 229/73, 229/74, 229/75 and 229/37 and to restore it to the original status and grant patta to the petitioner.

2. It is the case of the petitioner that he is the owner of the natham land comprised in Survey No.229/20. He had filed a suit for bare injunction in O.S.No.16 of 2003 on the file of the Principal District Munsif, Kumbakonam. This suit was dismissed by the judgment and



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decree, dated 29.11.2004, against which he had filed A.S.No.10 of 2005 on the file of the Principal Subordinate Court, Kumbakonam. The appeal was also dismissed and a second appeal in S.A(MD)No.668 of 2005 has been filed. The suit was dismissed on the ground that a suit for bare injunction without seeking declaration was not maintainable. Therefore, he was advised to withdraw the the second appeal and file a comprehensive suit for declaration of title and consequential relief. Therefore, the petitioner withdrew the second appeal on 28.03.2019 and thereafter, filed a suit in O.S.No.60 of 2015 on the file of the Additional District Court, Kumbakonam for declaration of title and recovery of possession.

3. While the suit was pending, the petitioner came to learn that Survey No.229/20 had been subdivided into various survey numbers in the names of the respondents 4 to 9. He was not put on notice before the subdivision or before the mutation of revenue records and grant of patta in favour of the respondents 4 to 9. His request under the RTI Act for copy of the order was also not granted and on the contrary, by reply dated



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03.08.2020, Deputy Tahsildar, Kumbakonam and Personal Assistant to the Revenue Divisional Officer, Kumbakonam had stated that the files were not available in the record room.

4. The petitioner had filed an appeal before the 2nd respondent on 14.09.2021 to cancel the subdivision and restore the patta. The petitioner had received enquiry notice from the Zonal Deputy Tahsildar, Kumbakonam, before whom he had appeared and produced all the documents. Prior to this, the petitioner had filed two writ petitions in W.P.(MD)Nos.19039 and 19040 of 2021 for a mandamus directing the 2nd respondent to conclude the enquiry and dispose of the appeal for cancellation of the subdivision. A common order was passed calling upon the respondents to dispose of the same within a period of three months. The 2nd respondent concluded the enquiry and passed an order, dated 20.04.2022 cancelling the subdivisions in Survey Nos. 229/71, 229/72, 229/73, 229/74, 229/75. But subdivision in Survey No.229/37 was not effected stating that the subdivision had been made on the orders of the 1st respondent. The petitioner as well as the respondents 4 to 9 had filed



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separate revisions challenging the orders. Both the revisions have been clubbed together and the same is pending before the 1st respondent. Meanwhile, the petitioner's suit for declaration of title and recovery of possession was decreed and there is no appeal against the said judgment and decree. Therefore, the petitioner had requested the respondents 1 to 3 to cancel the subdivision and restore the property to its original survey number i.e., 229/20. Since it was not considered, the petitioner is before this Court.

5. Heard the learned counsel on either side.

6. Considering the fact that the petitioner's suit for declaration of title and recovery of possession has been decreed in O.S.No.60 of 2015, any enquiry by the respondents 1 to 3 in respect of the entitlement of the petitioner to patta would be redundant. Therefore, taking into consideration the judgment and decree in O.S.No.60 of 2015, a mandamus is granted as prayed for. The respondents shall cancel the subdivisions in Survey Nos.229/71, 229/72, 229/73, 229/74, 229/75 and



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229/37 and restore Survey No. 229/20 and grant patta in the name of the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order.

7. In view of the above, this Writ Petition stands allowed. No costs.

21.10.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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3.The Tahsildar,
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P.T.ASHA, J.

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