

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2015

CORAM

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

W.P.No.808 of 2014

D.Balu

... Petitioner

vs.

1. The District Collector
Tiruvannamalai District,
Tiruvannamalai.

2. The Tahsildar
Thandrapattu Taluk,
Tiruvannamalai District.

3. The Block Development Officer
Thandrampattu Union,
Thandrampattu,
Tiruvannamalai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus to direct the first respondent to consider the petitioner's representations, dated 20.05.2013 and 21.06.2013 for issuance of patta with regard to the land measuring 0.20.5 hectares (50 cents) comprised in S.No.214/6A, Thandrampattu village, Thandrampattu Taluk, Tiruvannamalai District and pass necessary orders, within a time frame, that may be fixed by this Court.

For Petitioner

: Mr.P.Mani

For Respondents

: Mr.R.Ravichandran, AGP

for R1 and R2

No Appearance for R3

ORDER

Heard P.Mani, learned counsel appearing for the petitioner and Mr.R.Ravichandran, learned Additional Government Pleader appearing on behalf of the respondents 1 and 2.

2. The prayer in the writ petition is seeking an order in the nature of a writ of mandamus, to direct the first respondent to

consider the petitioner's representations, dated 20.05.2013 and 21.06.2013 for issuance of patta, in respect of the land measuring 0.20.5 hectares (50 cents) comprised in S.No.214/6A, Thandrapattu village, Thandrapattu Taluk, Tiruvannamalai District.

3. Learned counsel for the petitioner submits that late Duraisamy Reddiar, the father of the petitioner owned the property by virtue of Exchange Deed, entered into between the father of the petitioner and one Varadarajan, dated 29.12.1961, whereby the property stated in the writ petition was given in exchange in favour of Duraisamy Reddiar, father of the petitioner herein and based on the said Registered Exchange Deed, the petitioner, who is the son of the late Duraisamy Reddiar claims right to the property and made representation in writing to the second respondent for issuance of patta. Since patta was not issued in favour of the petitioner, he has come forward with the petition, seeking a direction in the nature of mandamus for issuance of patta.

4. Per contra, the learned Additional Government Pleader submits that the property stated in the written representation is the property of the Village panchayat of Thandrapattu Union, as stated by the Block Development Officer of the said Union. Hence, the plea of the petitioner is based on a disputed question of fact relating to the title of the property. The petitioner cannot directly file this writ petition, seeking direction against the respondents 1 and 2 to issue patta in the name of the petitioner and further, the petitioner has not filed any legal heir ship certificate to show that he is the sole legal heir of the deceased Duraisamy Reddiar. Even if the legal heir ship certificate or Succession certificate of the petitioner is available, he has to establish that he has got title to the schedule mentioned property by way of the alleged Exchange Deed, dated 29.12.1961 entered into between the father of the petitioner and the said Varadarajan.

5. It is well settled that for establishing the title, appreciation of evidence is mandatory and therefore, having gone through the claim made by the petitioner and the submission made by the learned Additional Government Pleader, this Court is of the view that the claim of the petitioner is based on a disputed question of fact, which requires evidence, both oral and documentary and therefore, the appropriate forum would be the concerned Civil Court, to establish the right claimed by the petitioner and the writ petition, directly seeking mandamus is not sustainable in law. Therefore, the writ petition is liable to be dismissed. However, it is made clear that the petitioner is at liberty to approach the appropriate Civil Court for seeking appropriate legal redressal.

6. With the above observation, this writ petition is dismissed.
However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2 / tsvn

To

1. The District Collector
Tiruvannamalai District,
Tiruvannamalai.
2. The Tahsildar
Thandrapattu Taluk,
Tiruvannamalai District.
3. The Block Development Officer
Thandrampattu Union,
Thandrampattu,
Tiruvannamalai District.

1 cc to Mr. P.Mani, Advocate, SR.No.4881

1 cc to Government Pleader, Sr.No5133

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rv(co)

pmk.16.3.2015

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