

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.1014 of 2010
and
M.P.No.1 of 2010

T.M.Parswatha Nainar

.. Petitioner

Vs.

1. The District Revenue Officer,
Villupuram.

2. The Revenue Divisional Officer,
Tindivanam,
Tindivanam Taluk,
Villupuram District.

3. The Tahsildar,
Gingee, Gingee Taluk,
Villupuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified mandamus to call for the records pertaining to the order of the first respondent in Na.Ka.B7/TaTi RR PaPi 24/08 dated 12.12.2009 and quash the same as illegal, void and unjust and direct the respondents to issue patta in favour of the petitioner in respect of the lands comprised in S.No.88/2 of Sakkarapuram village, Gingee Taluk, Villupuram District.

For Petitioner : No appearance

For Respondents : Mr.P.Sanjay Gandhi, AGP

ORDER

This writ petition has been filed calling in question an order dated 12.12.2009 bearing reference Na.Ka.B7/Ta Ti RR PaPi 24/08 made by the District Revenue Officer, Villupuram, who is respondent No.1 before me. This order dated 12.12.2009 is hereinafter referred to as 'impugned order' in this writ petition. In and by the impugned order, the first respondent has confirmed an order dated 27.8.2007 bearing reference Na.Ka.No.A3/5769/2005 made by the Revenue Divisional Officer,

Tindivanam (respondent No.2 before me), wherein and whereby the second respondent has negatived the petitioner's request for patta to an extent of 0.01.0 ares from and out of 0.95.0 ares in S.No.88/2 in No.161, Sakkarapuram village, Ginjee Taluk, Villupuram District (hereinafter referred to as the 'said land' in this order for the sake of brevity).

2. The above said order of the second respondent dated 27.8.2007 has been passed primarily on the ground that the said land has been classified as Kulam poramboke, therefore, a water body, as a consequence of which, patta cannot be granted in the light of G.O.No.41 Revenue Department dated 21.1.1987.

3. When the matter was called, there was no representation for the writ petitioner. However, Mr.P.Sanjay Gandhi, learned Additional Government Pleader is present on behalf of all the three respondents, who are official respondents.

4. Mr.P.Sanjay Gandhi, learned Additional Government Pleader, draws my attention to G.O.No.41 dated 21.1.1987 and states that there is a bar with regard to giving patta for lands that are classified as water bodies.

5. I have perused the affidavit filed in support of the writ petition by the writ petitioner as well as the typed set of papers, besides hearing the submissions of learned Additional Government Pleader.

6. It is seen from the affidavit of the writ petitioner that the writ petitioner does not dispute the fact that the said land has in fact been classified as Kulam poramboke in the revenue records. Therefore, factually there is no dispute that it is a water body.

7. The only ground in sum and substance, which the writ petitioner has raised is that there is a compromise decree in civil suits, being O.S.Nos.363 of 1983 and 439 of 1984, both on the file of District Munsif Court, Gingee. According to the writ petitioner, both the decrees are dated 13.6.1985 and both were compromise decrees. The writ petitioner has contended that the District Collector, Villupuram is a party to the said compromise decree. The writ petitioner also has contended in the writ affidavit that the compromise decree is dated 13.6.1985, which is prior to G.O.No.41 which is dated 21.1.1987. The writ petitioner primarily contends that retrospective effect cannot be given.

8. The above submission of the writ petitioner cannot be sustained. The reason is that a concession said to have been made by the District Collector cannot by any manner over ride the policy decision of the State that no patta shall be granted

in lands that are classified as water bodies, particularly in the light of the fact that such policy decisions are taken in larger public interest. Such a concession is the fulcrum of the compromise decree.

9. As the only point in sum and substance which has been raised by the writ petitioner fails owing to the above said reasons, the writ petition has to necessarily fail.

10. Before parting with the matter, it is necessary to place on record that protection / preservation of water bodies is in larger public interest and any private interest of an individual has to necessarily yield to such larger public interest.

11. Accordingly, the writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The District Revenue Officer,
Villupuram.

2. The Revenue Divisional Officer,
Tindivanam,
Tindivanam Taluk,
Villupuram District.

3. The Tahsildar,
Gingee, Gingee Taluk,
Villupuram District.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.47923

+1cc to the Government Pleader, S.R.No.48052

W.P.No.1014 of 2010

AR(CS III)
CS/03/08/17