

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.1637 of 2016

and

W.M.P.Nos.1385 & 1386 of 2016

K.Shreenivasa Rao

.. Petitioner

Vs.

1.The Director of Survey & Settlement,
Survey House,
Chepauk,
Chennai - 600 005.

2.The District Collector,
Krishnagiri District,
Krishnagiri.

3.The District Revenue Officer,
Krishnagiri District,
Krishnagiri.

4.The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

5.The Tahsildhar,
Krishnagiri Taluk,
Krishnagiri.

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceeding issued by the 3rd respondent in Na.Ka.No.25894/2015 J2 date 16.12.2015 and to quash the same and consequently directing the respondent to grant patta in respect of lands comprised in S.Nos.19/1, 19/2 & 19/3 to an extent of 21.39 acres and the land comprised in S.Nos.44/3, 44/4 and 44/9 to an extent of 7.38 acres, Kothappettah Village, Krishnagiri Taluk & District in favour of the legal heirs of Thiru.R.Narasinga Rao and R.Krishnaji Rao, the original land owners.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Ms.A.L.Ganthimathi

For Respondents: Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The challenge in the writ petition is to the order passed by the District Revenue Officer in Na.Ka.No.25894/2015/J2 dated 16.12.2015.

2. The petition mentioned survey numbers belong to the petitioner being one of the joint owners of the property having valid title over the same. There was a Civil Suit filed in O.S.No.784/1982 before the District Munsif Court, Krishnagiri against the Revenue Department including the District Collector, for declaration of the title and for permanent injunction. The suit was originally dismissed and an appeal in A.S.No.140 of 1995 was filed before the III Additional District Judge, Dharmapuri. The suit was decreed allowing the appeal filed by the plaintiffs therein. Against the judgment and decree of the first appeal, Second Appeal No.531 of 1997 was filed by the Government and the same was dismissed on 28.01.2015 as abated. Though the respondents had taken steps to bring on the legal heirs of the deceased, excepting producing the SR number for having filed the application, the same had not been processed for more than three years.

3. In the meanwhile, there was an order passed by this Court in W.P.No.25775 of 2015 filed by the very same petitioner, seeking a mandamus directing the respondents to consider the application submitted by the petitioner on 05.08.2015 and pass appropriate orders for grant of patta in respect of the lands in S.Nos.19/1, 19/2 & 19/3 and also other lands in S.Nos.44/3, 44/4, & 44/9 in Kothappettah Village, Krishnagiri District. In the said writ petition, the following order was passed on 19.08.2015 :

"As the respondent Nos.2 & 4 are the appellant in the second appeal in S.A.No.531 of 1997, those two respondents are duty bound to consider the request of the petitioner. Hence, the petitioner is directed to make another representation to the respondent No.2 within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the respondent No.2 is directed to pass appropriate orders by taking into consideration all the civil proceedings. It is made clear that appropriate

orders will have to be passed by the respondent No.2 within a period of eight weeks from the date of receipt of such representation from the petitioner. The respondent No.2 shall either pass orders by himself or by directing other respondent Nos.3 to 5 to complete the said exercise."

4. Though the said order was passed in 19.08.2015, without even waiting for the restoration of the second appeal, the impugned order seems to have been passed on 16.12.2015. Aggrieved by the same, the writ petition has been filed.

5. According to the petitioner, already those points, which were agitated before the Civil Court, have been re-agitated in the impugned order and the impugned order is passed without adverting to the same. When the Civil Court had declared the title of the petitioner, the respondent ought not to have rejected the patta in favour of the land owners. Despite directions given by this Court in the earlier order that without waiting for the second appeal to be restored and heard again, the impugned order is passed citing the pendency of the appeal. It is also to be noted that the observation in the impugned order that the Civil Court decrees are contrary, in the sense, that the Trial Court had dismissed the suit and the Appellate Court had reversed it by decreeing the same and further, the second appeal was only dismissed as abated and not passed on merits and therefore could not be considered is ridiculous.

6. Once the Civil Court has declared title over the property, it is settled law that entry in Patta Pass Book shall be amended in accordance with any such declaration. The authorities have no power to re-agitate and adjudicate the question of title. As the title of the petitioner has become final by virtue of Civil Court decree, the revenue authorities are directed to make necessary entries in the revenue records by entering the names of the title holders. In the event any change or alteration is done by way of misrepresentation, it will be always open to the authorities to cancel the patta issued.

7. In view of the above discussion, the impugned order passed by the third respondent is liable to be set aside and the fifth respondent is directed to take into consideration of the proceedings of the Civil Court and pass appropriate orders for grant of patta in favour of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1.The Director of Survey & Settlement,
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Chepauk,
Chennai - 600 005.

2.The District Collector,
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4.The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

5.The Tahsildhar,
Krishnagiri Taluk,
Krishnagiri.

+1 CC to Govt. Pleader sr 35298.

+1 CC to M/s.A.L.Gandhimathi, Advocate sr 35099.

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SP(24/04/2019)