

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.43018 of 2016
and
WMP Nos.36871 and 36872 of 2016

T.Nagappa

.. Petitioner

Vs.

1.The District Revenue Officer,
Krishnagiri District,
Krishnagiri District.

2.The Tahsildar,
Hosur Taluk, Hosur,
Krishnagiri District.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the first respondent's order made in Pa.Mu.No.32638/2015/J-2 dated 26.05.2016 and quash the same and consequently direct the respondents herein to reclassify the petitioner's land comprised in S.No.680, Nandimangalam Village, Hosur Taluk, Krishnagiri District for an extent of 4.48.5 Hectares as patta land by deleting the classification as 'Podhugal' land.

For Petitioner : Mr.Durai Gunasekaran

For Respondents : Mr.R.Govindasamy
Special Government Pleader

O R D E R

The petitioner is aggrieved against the order of the first respondent dated 26.05.2016, rejecting the request of the petitioner to reclassify the land comprised in Survey No.680, Nandhimangalam Village, Hosur Taluk, Krishnagiri District, measuring an extent of 4.48.5 hectares as patta land by deleting the classification as 'Podhugal' land.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3.The petitioner claims that the land at Survey No.680, Nandhimangalam Village, Hosur Taluk has been in possession and enjoyment of the petitioner and his forefathers for long number of years by granting patta by the Revenue Department in favour of his grandfather. The grievance of the petitioner is that an extent of 11.08 acres in the said survey number has been classified as poramboke, when the patta granted to the petitioner's grandfather would show that it is patta land and not a poramboke land. Therefore, the petitioner sent a representation on 01.07.2015 to the first respondent for reclassification of the land. When the said representation was not considered, the petitioner approached this Court and filed a writ petition in W.P.No.23760 of 2015 and this Court, by an order dated 03.11.2015, directed the first respondent to pass appropriate orders on the representation of the petitioner by giving him an opportunity of hearing. Based on the said representation, the Tahsildar, Hosur, conducted a spot enquiry and filed a report dated 25.02.2016 before the first respondent stating that the land at Survey No.680 measuring 4.48.5 hectares was wrongly shown as poramboke land and the same can be reclassified as patta land in the name of the petitioner. Thereafter, the first respondent passed the impugned order rejecting the claim of the petitioner only by stating that there are no Resurvey and Resettlement Records showing the entry of the patta and that the petitioner's forefathers have not taken any steps to re-classify the land at the relevant point of time.

4.Learned counsel for the petitioner invited this Court's attention to the patta and kist receipt issued as early as in the year 1974 and 1989 in support of the petitioner's claim that the subject matter property is only a patta land and not the government poramboke land, as has been wrongly classified in the revenue records. He further pointed out that the Tahsildar, who conducted the subject inspection has also recommended for reclassifying the land, which the first respondent failed to consider.

5.The second respondent filed a counter affidavit, wherein it is stated that the subject matter land has been classified as 'Podhugal' in Government record and there are no records and documents to establish the petitioner's claim that the subject matter lands are patta lands. It is further stated that in the Settlement Register prior to the

UDR scheme, there are no entries about the ownership of the land.

6.Learned Special Government Pleader reiterated the contentions raised in the counter affidavit and supported the impugned order.

7.Heard both sides.

8.A perusal of the impugned order passed by the first respondent would show that he has not applied his mind to the facts and circumstances as well as the report submitted by the Tahsildar before arriving at a conclusion against the petitioner. It is claimed by the petitioner that the patta granted on 14.03.1974, which stood in the name of the petitioner's grandfather shows the subject matter land as patta land and therefore, the first respondent is not justified in rejecting the claim of the petitioner. This aspect has not been taken into consideration by the first respondent, while passing the impugned order. Even though the first respondent has chosen to extract the findings and recommendations made by the Tahsildar in the impugned order, he has not given his own independent findings and reasons as to how such findings of the Tahsildar are factually incorrect. Therefore, this court is of the view that the matter has to go back to the first respondent for considering the matter afresh, in the light of the documents available with the petitioner as well as the report submitted by the Tahsildar.

9.Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent for passing a fresh order, after considering all the aspects as discussed supra. Before passing the order, the first respondent shall also give an opportunity of personal hearing to the petitioner. The whole exercise shall be done by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order. Till the first respondent passes an order, status quo as on today shall be maintained. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri

To

1.The District Revenue Officer,
Krishnagiri District,
Krishnagiri District.

2.The Tahsildar,
Hosur Taluk, Hosur,
Krishnagiri District.

+lcc to Mr.Durai Gunasekaran, Advocate, S.R.No.83364

W.P.No.43018 of 2016

RRk(06/12/2017)



WEB COPY