IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15069 of 2004

Sankaranarayanan ... Petitioner

vs.

1.The Revenue Divisional Officer,
Thirunelveli.

2.The Tahsildar,
Sankarankoil Taluk,
Tirunelveli District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of certiorarified mandamus, calling for the records relating to the impugned notice issued by the 2nd respondent in Na.Ka.Alagu 1/4949/02 dated 08.04.2004 and quash the same and consequently direct the 2nd respondent to grant separate patta to the petitioner in respect of the land in Survey No.616/8 of Kalapakkulam Village, Sankarankoil Taluk, Tirunelveli District to an extent of 1.16.0 hectares which is lying on the northern side of the land.

For Petitioner : Mr. G. Sankaran
For Respondents: Mr.N. Roofus Abrahim
Government Advocate

O R D E R

The case of the Writ petitioner is that his father was owning a large extent of land in S.No.616/8 of Kalapakkulam Village, Sankarankoil Taluk, Tirunelveli District. The other joint owners of the land sold away their respective portion of the lands leaving the lands belonging to Rathina Pothi Pattar at northern side of the land.

2. As seen from the affidavit filed in support of the Writ petition, a joint Patta was issued in Patta No.2093, bearing the names of the Writ petitioner as well as his father(Rathina

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Pothi Pattar). The writ petitioner has applied for a separate Patta, and the Tahsildhar, Sankarankoil Taluk issued an order on 08.04.2004 stating that the land in which Patta sought for by the Writ petitioner was occupied by various other persons and more specifically constructions were put up. The Tahsildar in his order has stated that few persons are in possession of said property and houses also were constructed. Further it is stated that cement platforms were also constructed. Hence the writ petitioner was unable to establish that, he is in possession of portion of the land and having a valid title over the property.

3. In the event of not establishing that the petitioner is having a clear title and possession, the respondent said that no Patta can be issued. On a reading of the impugned order, it is clear that on verification, the Tahsildar is unable to find out the clear demarcations and the identity of the property of the writ petitioner against which a separate Patta has been sought for.

4. In the absence of clear meats and bounds on the identification, the second respondent is right in rejecting the claim for issuing separate Patta. Persons who are claiming Patta should prima facie establish that they are the owner of the property and in possession of the same. Clear demarcation and the identity of the property is an essential condition for issuance of Patta and therefore the return of application by the Tahsildar is in order and there is no infirmity. Further, the order under challenge is only the return of the application submitted by the Writ Petitioner seeking a separate Patta. Therefore the petitioner has got an opportunity to comply with the requirements and re-present the same for consideration. In stead of re-presenting the application seeking Patta by complying with the requirements, the Writ Petitioner has approached this Court challenging the same.

5. Therefore, the present Writ Petition is devoid of merits and the Writ Petitioner can very well approach the competent authorities by re-presenting the application, submitting all necessary documents for the issuance of Patta.

6. Accordingly, the Writ Petition No.15069 of 2004 is dismissed. No order as to costs.

Sd/-
Assistant Registrar(J)

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Sub Assistant Registrar

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ksa/rpa
To

1.The Revenue Divisional Officer,
  Thirunelveli.

2.The Tahsildar,
  Sankarankoil Taluk,
  Tirunelveli District.

+1cc to the Government Pleader Sr.19467

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