

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.37677 of 2003

T.M.K.Syed Zeenath Bi

... Petitioner

Vs.

1.The Special Commissioner and
Commissioner of Land
Administration, Chepauk,
Chennai 600 005.

2.The District Revenue Officer,
Tuticorin,
Tuticorin District.

3. The Sub-Collector,
Tuticorin.

4.The Tahsildar,
Sathankulam,
Tuticorin District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the entire records relating to the proceedings of the first respondent herein resulting in the Orders No.K.Dis.K4/25939/03 dated 13.08.2003 and Ref.No.K4/32184/03 Office of the Special Commissioner and Commissioner of Land Administration, dated 22.10.2003 by which the Order of the second respondent herein in his Order No.A3/109848/90 dated 17.04.1995 in Ref.No.I3/07638/03 dated 30.04.2003 and by which the Order of the third respondent herein in his Rejection Order A2/3258/1990 dated 19.09.1990 and then by which the 4th respondent's Order A2/1364/1990 dated 15.02.1990 is confirmed and quash the same.

For Petitioner : No appearance

For Respondents : Mr.A.Zakkir Hussain
Government Advocate

O R D E R

Writ Petition has been filed to issue a Writ of Certiorari to call for and examine the entire records relating to the proceedings of the first respondent herein resulting in the Orders No.K.Dis.K4/25939/03 dated 13.08.2003 and Ref.No.K4/32184/03 Office of the Special Commissioner and Commissioner of land Administration, dated 22.10.2003 by which the Order of the second respondent herein in his Order No.A3/109848/90 dated 17.04.1995 in Ref.No.I3/07638/03 dated 30.04.2003 and by which the Order of the third respondent herein in his Rejection Order A2/3258/1990 dated 19.09.1990 and then by which the 4th respondent's Order A2/1364/1990 dated 15.02.1990 is confirmed and quash the same.

2. The brief facts of the case is as follows:

The petitioner applied for change of patta before the Tahsildar, Sathankulam, Tuticorin District/fourth respondent herein on 20.12.1989. Originally, the property belong to the petitioner's grandfather, who acquired the same by virtue of sale deed dated 11.06.1895 and he had been in possession and enjoyment till the date of his death. Thereafter, petitioner's father inherited the property. On 31.08.1961, the petitioner's father died leaving behind the legal heirs and all other legal heirs have relinquished the family property in favour of the petitioner. Thereafter, the petitioner applied for transfer of patta before the fourth respondent.

3. After conducting a detailed enquiry, the fourth respondent rejected the petition for transfer of patta on the ground that the documents disclosed that the property stands in the name of Mosque Trust. Accordingly, the fourth respondent passed the order on 15.02.1990 rejecting the claim made by the petitioner.

4. Aggrieved by the said order of the fourth respondent, the petitioner filed an appeal before the Revenue Divisional Officer/3rd respondent (RDO) who also confirmed the order passed by the fourth respondent. Since the civil suit in C.S.No.200/90 and I.A.No.600/90 are pending between the parties, transfer of patta cannot be considered and hence, rejected the same. Accordingly petitioner appeal was dismissed on 19.09.1990.

5. The petitioner filed further Revision against the above said order before the District Revenue Officer. On 17.04.1995, District Revenue Officer has also confirmed the order of the respondents 3 and 4. In the meanwhile, the suit filed by the petitioner was also dismissed. Hence, his request for transfer of patta cannot be considered as against the civil court order. Accordingly, the appeal is dismissed. Aggrieved by the order

of the second respondent, the petitioner filed a revision before the first respondent after a lapse of thirteen years.

6. The Special Commissioner after entertaining the revision petition, dismissed the same as time barred, as against which the present writ petition is filed.

7. No representation for the petitioner. Heard the learned counsel for the respondents.

8. Admittedly, when the competent civil court had arrived at a conclusion that the petitioner has no right over the property and accordingly, the civil suit was dismissed as against the petitioner, the revenue authorities cannot have contrary view as against the competent civil court order and it is settled law that one patta is not a title of the property and title has to be established before the competent civil court.

9. In view of the above, I do not find any error or infirmity in the order passed by the revenue authorities. Therefore, I am not inclined to interfere with the order passed by the revenue authorities.

In the result, the writ petition fails and accordingly the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gv

To

1.The Special Commissioner and
Commissioner of Land
Administration, Chempauk,
Chennai 600 005.

2.The District Revenue Officer,
Tuticorin,
Tuticorin District.

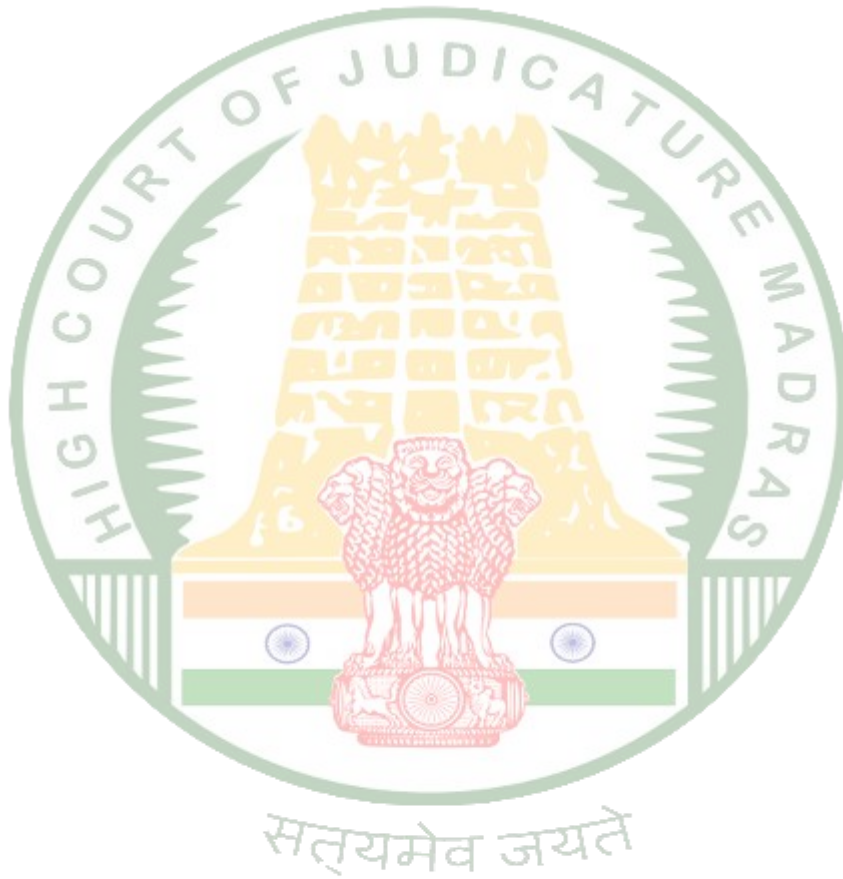
3. The Sub-Collector,
Tuticorin.

4.The Tahsildar,
Sathankulam,
Tuticorin District.

+1cc to the Government Pleader, S.R.No.62069

W.P.No.37677 of 2003

GR(CO)
GN(10/10/2017)



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