BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.06.2017

DELIVERED ON : 30.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Writ Appeal (MD) No.1022 of 2014
and
MP (MD) No. 01 of 2014

The Reverent,
R.C.Mission Church,
Sathankulam,
Thoothukudi District : Appellant/Petitioner

Vs.

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

2.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

3.The Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District. :Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to against the order in W.P.(MD).No.4612 of 2007, dated 10.07.2014 on the file of this Court.

Prayer in WP(MD)No.4612/2007:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS,calling for the records relating to the order passed by the 1st respondent in his proceedings D.Dis.K4/2678/06 dated 18/04/2007 confirming the order made in Na.Ka.D2/66218/04 dated 15/12/2005 passed by the 2nd respondent, confirming the order made in Na.Ka.A5/4976/03 dated 17/09/2003 on the file of the 3rd respondent and quash the same as illegal and consequentially to direct the 3rd respondent to effect mutation in revenue records in respect of land admeasuring an extent of 0.26.59 hectares in Survey No. 276/1, Nangaimozhi village in favour of the petitioner.

For Appellant : Ms. Jessi Jeeva Priya for Mr.N.Subramanian

For Respondents 1-3 : Mr.V.Muruganandham Additional Government Pleader

JUDGMENT

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[Judgment of the Court was made by P.VELMURUGAN,J.]

This Writ appeal is directed against the order dated 10.07.2014 in W.P.(MD).No.4612 of 2007, filed by the appellant/writ petitioner, to quash the order passed by the 1st respondent in his proceedings D.Dis K4/2678/06, dated 18.04.2007, confirming the order made in Na.Ka.D2/66218/04, dated 15.12.2005 passed by the 2nd respondent, confirming the order made in Na.Ka.A3/4376/03, dated 17.09.2003, on the file of the 3rd respondent and consequently, to direct the 3rd respondent to effect mutation in revenue records in respect of the land measuring to an extent of 0.26.59 hectares in Survey No.276/1, Nangaimozhi Village in Favour of the petitioner.

2.The case of the appellant/writ petitioner is that the writ petitioner is a Church and it is in possession of the property and therefore, under the Natham Settlement Scheme, the petitioner is entitled for patta.

3.The appellant made an application to the revenue authorities and finally it came before the 1st respondent namely the Special Commissioner & Commissioner of Land Administration, Chepauk, Chennai. The appellant before the 1st respondent contended that patta ought to have been granted in faovur of the Church. But the first respondent rejected the application and challenging the same the appellant filed the writ petition. According to the appellant as per the judgment and decree passed in O.S.No.603 of 1995 dated 15.09.1999 the appellant is entitled for patta. The third respondent filed a counter stating that subsequent to the decree of the Civil Court, patta was issued in favour of the Church and later on it was cancelled by his proceedings dated 17.09.2003 against which the appellant filed an appeal before the second respondent, was also dismissed. Thereafter, the appellant preferred a revision before the first respondent who passed the impugned order in the writ petition. The Writ Court after hearing both sides dismissed the writ petition holding that of course,the Civil Court has decreed the suit, there by declaring the title of the church, the Revenue Authorities were not parties to the Suit and hence, the decree in O.S.No.603 of 1995 is not binding on the revenue authorities. However, liberty was given to the appellant, to work out his remedy before the Civil Court, in the manner known to law. Aggrieved over the same, the appellant has filed the present Writ Appeal.

4.Heard Mrs. Jessi Jeeva Priya learned counsel who appeared for Mr.N.Subramaniyan, learned counsel for the appellant and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents and perused the material on record along with the impugned order.

5.The case of the appellant is that the properties are classified as Natham and they are enjoying the property more than 100 years and they got patta. Some of the persons belong to Hindu Munnani disturbed the possession over the property by the appellant. Therefore, they had filed a suit in O.S.No.603 of 1995 before the learned Additional District Munsif, Tiruchendur against 6 persons and the said suit was decreed in their favour. The aggrieved defendants took up the matter in Appeal in A.S.No. 87 of 2007 on the filed of the Additional District Judge, Tuticorin, but failed in the appeal also, thus getting the decree of the Trial Court confirmed by the Appellate Court, it cannot be stated that the decree could be a collusive one. Thereafter, patta was granted in favour of the appellant only for 30 cents. However, on the basis of G.O.Ms.No.1971 Revenue dated 14.10.1998 the patta was cancelled stating that there is no rule to give patta for Temple, Church and Mosque under Natham Settlement Scheme.

6.The main contention of the appellant is that based on the patta granted to them they paid kist. Though the Revenue authorities were not parties to the suit in O.S.No. 603 of 1995 based on two documents, the appellant confirmed his title over the property.

7.Perusal of the impugned order would show that patta granted in favour of the appellant/writ petitioner was cancelled subsequently, since patta was granted by the authority without any jurisdiction to grant patta in favour of the appellant for the reason that in G.O.Ms.No.1971 Revenue dated 14.10.1998. it was ruled out that there is no rule to give patta for Temple, Church and Mosque under Natham Settlement Scheme. Since the patta has been granted without any jurisdiction the said patta was cancelled against which an appeal and also a revision were filed by the appellant which were decided against the appellant and hence, appellant has filed a writ petition in which also he failed his attempt. Perusal of the judgment of the civil Court would show that the appellant was in possession of the property for 100 years and since the respondents therein were disturbing the possession of the appellant over the property, they have filed the suit for declaration and injunction. However, in the said suit, the Revenue Authorities are not parties and since, the dispute is between two private parties, the decree will not bind the revenue authorities. Further the Revenue Authorities or Government are not parties to the Suit and the G.O.Ms.No.1971 Revenue dated 14.10.1998 was not brought to the Notice before the Civil Court in the above said suit and appeal.

8.For all the above reasons, we are of the view that the appellant has not made out any ground to interfere with the order passed by the Writ Court and the appeal is, therefore, liable to be dismissed.

9.In the result, the writ appeal fails and it is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

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

2.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

3.The Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

+One cc to Mr.N.Subramanian, Advocate, SR.No.63264

Arul/dsk
RL/5C/4P/MR/KKR/SAR1/10/7/2017

ORDER MADE IN

Writ Appeal (MD) No.1022 of 2014
and
MP (MD) No. 01 of 2014

30.06.2017