

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.11043 of 2016

1.G.Chandrasekaran

..Petitioner

vs

1. The District Collector
Office of the District Collector Office
Coimbatore District.

2. The Tahsildar,
Valparai Sub Division.
Valparai.

3. M.Abidha

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 2nd respondent to consider the petitioner's representation dated 05.03.2016 and direct the respondents not to issue Patta in the name of Abidha, the third respondent herein who is the petitioner's neighbour in Survey No.42/9 measuring about 25 sents at Rottikadai, Valparai Taluk within the stipulated time.

For Petitioner : Mr.M.N.Balakrishnan

For Respondents : Mrs.A.Srijayanthi
Special Government Pleader
for R1 & R2.
Ms.J.Franklin for R3.

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O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider the petitioner's representation dated 05.03.2016 and to direct the respondents not to issue Patta in the name of Abidha, the 3rd respondent, who is the petitioner's neighbour in S.No.42/9 measuring about 25 sents at Rottikadai, Valparai Taluk.

2. The grievances of the writ petitioner is that the 3rd respondent is an encroacher. He is attempting to encroach the land belongs to the Government. Being an encroacher, no Patta can be granted to the 3rd respondent by the respondents 1 and 2. In view of the fact that the respondents 1 and 2 have taken an attempt to grant Patta, the writ petitioner is constrained to move the present writ petition.

3. The learned counsel appearing on behalf of the writ petitioner made a submission that the 3rd respondent is attempting to encroach into the Government Poromboke land and therefore, the respondents cannot entertain any application for grant of Patta under the Tamil Nadu Patta Passbook Act, 1983. Contrarily, the respondents 1 and 2 are permitting the 3rd respondent to encroach upon the Government land. Thus, the writ petitioner has no other remedy except to approach this Court by filing this writ petition.

4. Admittedly, a Civil Suit has already been filed by the 3rd respondent in O.S.NO.221 of 2015 before the Sub Court, Pollachi for a declaration of title. When the suit for declaration is pending before the Competent Civil Court of law, the revenue officials are incompetent to adjudicate the title, ownership or possession of the parties under the provisions of Patta Passbook Act and Section 3 of the said Act states that the Patta passbook can be granted only to the owner. Thus, the owner of the property alone is competent to submit an application seeking grant of Patta. In the event of any dispute regarding title, ownership or possession, the respective parties can approach the competent Civil Court of law for redressing their grievances regarding title or ownership.

5. In this view of the matter, the respondents 1 and 2 cannot adjudicate the title, ownership or possession, in respect of the claim of the 3rd respondent or the writ petitioner. However, the Civil Suit has already been filed by the 3rd respondent before the competent Civil Court of law and only after the conclusion of the civil litigations between the parties, the revenue officials are empowered to entertain the application under the provisions of the Patta Passbook Act.

6. Thus, it is made clear that after the conclusion of the entire civil dispute, the respective parties are at liberty to approach the revenue officials by submitting a fresh application for grant of Patta in accordance with the procedures contemplated under the provisions of the Patta Passbook Act.

7. The writ petition stands disposed of, with the above observation. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

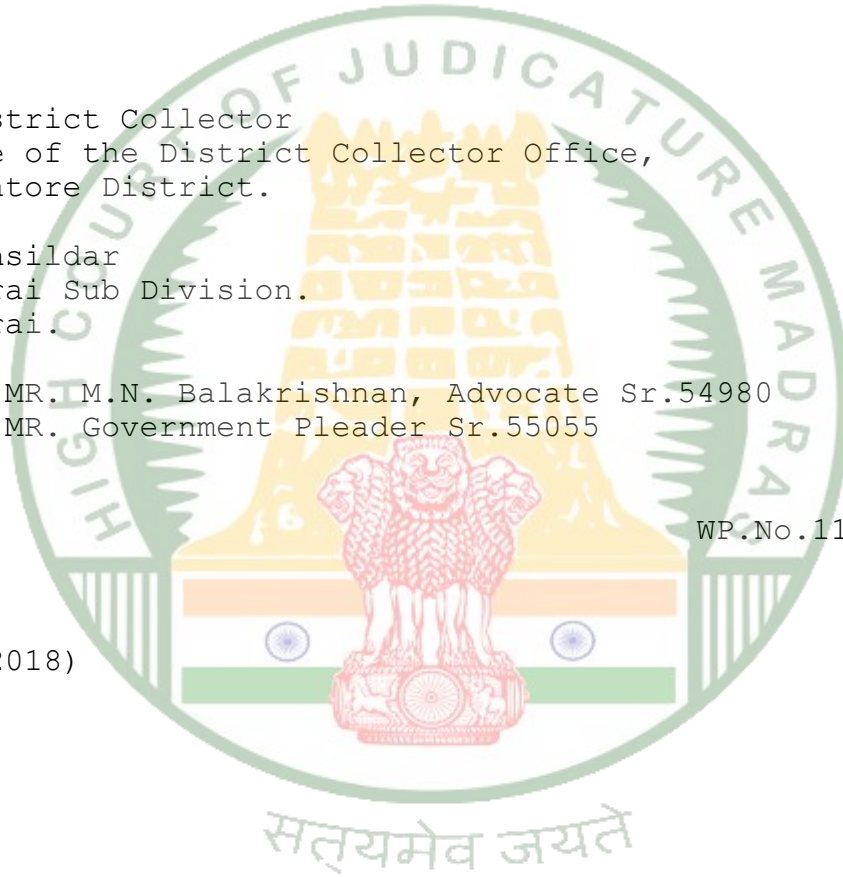
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To

1. The District Collector
Office of the District Collector Office,
Coimbatore District.
2. The Tahsildar
Valparai Sub Division.
Valparai.

+ 1 cc to MR. M.N. Balakrishnan, Advocate Sr.54980
+ 1 cc to MR. Government Pleader Sr.55055

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