

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :05.10.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No. 16761 of 2013
and MP.No.1 of 2013

S.KANNAN

Vs

1.The Commissioner Survey and Settlement
O/o.The Commissioner of Survey and
Settlement,
Chepauk, Chennai-5.

2.The Executive Officer,
Sri Alaghiya Manavala Temple,
Sivagangai.
(R2-suo motu impleaded as per order dt.
11.09.2018) .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus calling for the entire records of the impugned order passed by the respondent in Na.ka.No.I1/5772/12 dated 22.10.2012 and quash the same and consequently direct the respondent to cancel the Patta standing in the name of the Alaghiya Manavala Temple and issue Patta in the name of the petitioner with regard to land in survey Nos.138/2 & 138/3 situated in Sudiyr Village Paramagudi Taluk, Ramnad District.

For Petitioner : Mr.T.Muruganantham
For Respondents : Mr.R.S.Selvam
Government Advocate for R1

Mr.M.Maharaja
Special Government Pleader (HR & CE)
for R2

O R D E R

The order of the Commissioner, Survey and Settlement dated 22.10.2013 is under challenge in this writ petition. Admittedly, the Patta stands in the name of Sri Alaghiya Manavala Temple at Sivaganga. Even in the prayer stated in the writ petition, the writ petitioner states that the Patta is now standing in the name of Sri Alaghiya Manavala Temple. Instead of that, the writ petitioner claims Patta based on the fact that the judgment and decree was passed in favour of the writ petitioner 40 years back, more specifically, during the year 1970. All these factual aspects raised by the writ petitioner had been considered by the Commissioner, Survey and Settlement in his order dated 22.10.2012.

2. Even on verification of the revenue records, it is found that the land in question stands in the name of the 2nd respondent Temple and therefore, it is left open to the writ petitioner to approach the competent Civil court of law, if at all, he is of an opinion that the land is belonged to him based on the certain documents. In respect of the title, ownership and possession, the parties have to approach the competent civil Court of law by producing their original documents and by adducing evidences. Such complex facts and circumstances can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India. This apart, the facts raised by the writ petitioner had also been considered by the 1st respondent and a speaking order was passed in proceedings dated 22.10.2012.

3. This being the factum of the case, this Court is of an opinion that the Patta stands in the name of the 2nd respondent Temple cannot be disturbed and the writ petitioner, if at all claims any civil right, has to establish the same in the manner known to law before the competent forum. The order passed by the 1st respondent in proceedings dated 22.10.2012, stands confirmed.

4. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.10.2018

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S.M.SUBRAMANIAM, J.

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Internet:Yes/No

Index : Yes/No

Speaking/Non speaking order

To

The Commissioner Survey and Settlement

O/o.The Commissioner of Survey and

Settlement,

Chepauk, Chennai-5.

W.P.No.16761 of 2013

05.10.2018