

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.08.2018

CORAM

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

W.P.No.10781 of 2018

S. Janakiammal

... Petitioner

versus

1. District Revenue Officer,
Collectorate, Kancheepuram Dt.

2) The Tahsildar,
Kancheepuram Tk,
Kancheepuram Dt.

3) The Assistant Commissioner,
HR & CE, Kancheepuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the First respondent, dated 12.04.2016 made in Na. Ka 3359/2015/N3 and quash the same as null and void and arbitrary and consequently direct the First respondent to cancel the patta issued in name of the Arulmighu Manikandeshwarar Koil, Chinna Kancheepuram and issue Joint Patta in the name of Janakiammal and Jayalakshmi Daughters of Late Ramalingam in respect of land to an extent of 10 cents in Ian Punjai Survey No.367/3 situated at Thiruputkuli Village, Kancheepuram Taluk, Kancheepuram District within SRO of Thamal and within the registration district of Kancheepuram.

For Petitioner : Mr. N.Vanaraj

For Respondents: Mr.R.S.Selvam,
Government Advocate for RR1 and 2
Mr.M.Maharaja,
Special Government Pleader (HR & CE)

O R D E R

The order of rejection passed by the first respondent in Proceedings, dated 12.04.2016 in respect of the claim of the writ petitioner for grant of patta is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is the absolute owner and in possession and enjoyment of the property to an extent of 10 cents in Ian Punjai Survey No.367/3, situated at Thiruputkali Village, Kancheepuram Taluk and District.

3. The petitioner's paternal grandmother purchased the said property on 27.10.1967 from one Madurai, which was registered as Document No.5360/1967 in the office of the SRO Kancheepuram. Thus, the petitioner continued her possession in respect of the said property. The grievances of the writ petitioner is that she submitted an application for grant of patta before the Tahsildhar, who in turn, conducted an enquiry based on the documents submitted by the writ petitioner and rejected the same on the ground that the writ petitioner has not established the ownership in respect of the property in question.

4. The learned counsel for the writ petitioner has made a submission that the writ petitioner has established the title before the Tahsildar and the Tahsildar has not considered the same in the right spirit and in fact, the 3rd respondent, Assistant Commissioner, HR & CE Department has sent a letter to the Tahsildhar stating that the property did not belong to the temple. Thus, there is no counter claim from the temple, as such, in respect of the property and the possession and enjoyment of the writ petitioner. However, grant of patta has been rejected on the ground that the documents produced by the writ petitioner are not sufficient to establish the ownership. There is some missing links in respect of the property and the reason why the claim of the writ petitioner has been rejected.

5. This Court is of an opinion that the temple has given no objection in respect of the property belongs to the writ petitioner, as the temple is not the owner of the property. However, the complex facts and circumstances arising in respect of the title or ownership can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India. This Court cannot verify the authenticity of the documents produced by the writ petitioner nor adjudicate the same for the purpose of declaring that the writ petitioner is the owner of the property.

6. Section 3 of the Patta Pass Book Act, 1983, enumerates that a owner can submit an application for grant of patta pass book. If a person who is in possession of an immovable property is able to establish the ownership, then alone patta can be granted by the competent authorities under the provisions of the Patta Pass Book Act. Even the revenue officials under the Patta Pass Book Act have no jurisdiction or competency to adjudicate

the title or ownership in respect of an immovable property. In the event of any such dispute or non clarity in respect of the document, then the parties concerned are bound to approach the competent Civil Court of law for the purpose of establishing their legal rights including title, ownership or possession in respect of an immovable property. The revenue officials competent are empowered to consider the documents produced and if there is any doubt or otherwise in respect of the documents produced, then they are bound to direct the parties to approach the competent Civil Court, for the purpose of adjudicating those documents for establishing the title or ownership.

7. So also, this Court under Article 226, cannot adjudicate the title nor verify the documents or genuinity of the same, which was produced by the writ petitioner in a writ petition. Admittedly, the temple authorities have given a letter stating that they are not the owners of the property. However, the competent authority/ District Revenue Officer has rejected the claim of the writ petitioner for grant of patta on the ground that the revenue documents produced by the writ petitioner are insufficient to hold that the writ petitioner is the owner of the property. When the findings of the District Revenue Officer states so, this Court has no option, but to direct the writ petitioner to approach the competent Civil Court of law for the purpose of redressing her grievances. In this view of the matter, the writ petitioner is at liberty to approach the competent Civil Court of law for the purpose of establishing her title, ownership, or possession regarding the property, which is described in the present writ petition. However, in respect of the patta granted in favour of the temple, the authorities competent are bound to cancel the patta in view of the fact that the 3rd respondent / Assistant Commissioner has categorically admitted that the property did not belong to the temple. Accordingly, the relief as such sought for in this writ petition cannot be granted and it is left open to writ petitioner to approach the competent Civil Court of law. With this observation, this writ petition stands disposed of. However, there shall be no order as to costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

vsi 2/pkn

To

1) District Revenue Officer,
Collectorate, Kancheepuram Dt.

2) The Tahsildar,
Kancheepuram Tk,
Kancheepuram Dt.

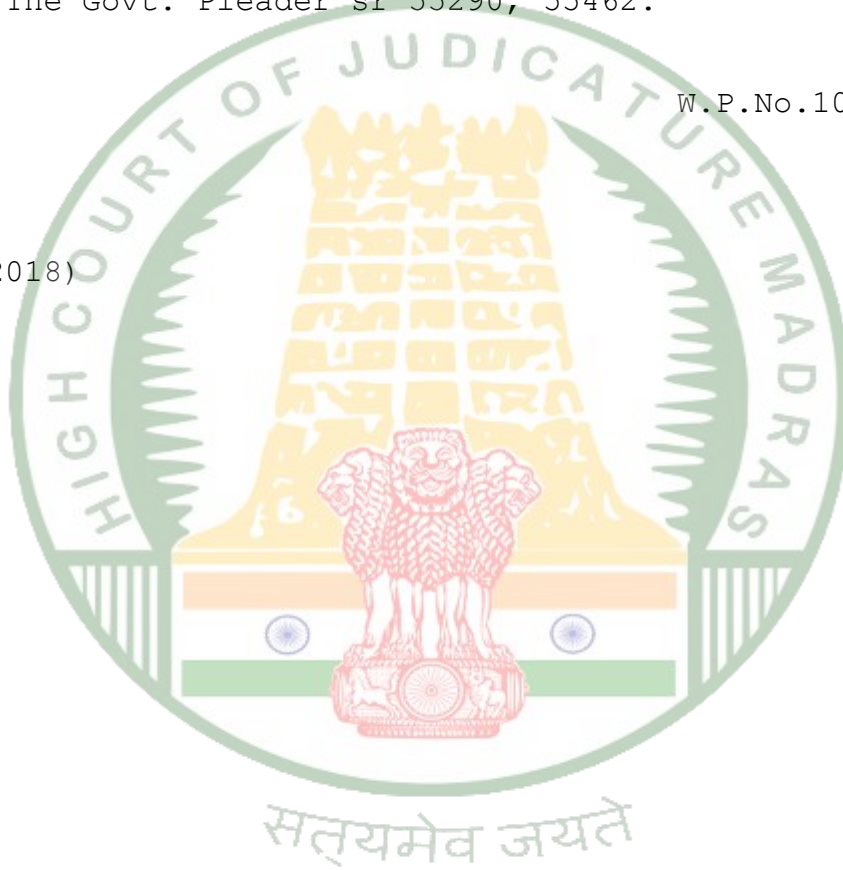
3) The Assistant Commissioner,
HR & CE, Kancheepuram.

+1 CC to MR.N. Vanaraj, Advocate sr 55073

+1 Ccs to The Govt. Pleader sr 55290, 55462.

W.P.No.10781 of 2018

SR(CO)
SP(07/09/2018)



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