

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2018

CORAM

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

W.P.No.12369 of 2015

and

M.P.No. 1 of 2015

Arumuga Gounder

... Petitioner

vs

1. The District Collector
Villupuram District,
Villupuram.

2. The Tahsildar
Gingee Taluk,
Gingee,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in respect of the impugned order passed by the 2nd respondent dated 07.04.2015 bearing Ref.No.Na.Ka. (B2)/1289/2015 and quash the same and consequently direct the respondents to issue Patta in respect of the land comprised in S.No.14/11 admeasuring 49 cents situated in Ooranithangal Village, Gingee Taluk, Villupuram District in favour of the petitioner.

For Petitioner :Mr.N.G.Prasanna
For M/S.Sai Bharath

For Respondents :Mr.D.Raghu,
Government Advocate

O R D E R

The order of the Tahsildar rejecting the claim of the writ petitioner for grant of patta in proceedings dated 07.04.2015 is under challenge in this writ petition.

2. The learned counsel for the petitioner states that the property admeasuring 5 acres of agricultural land comprised in Survey No.14/11, 14/12, 14/13 and 14/14 situated at Ooranithangal Village, Gingee Taluk, Villupuram District is an ancestral property of the writ petitioner. By virtue of a partition deed, the writ petitioner became the absolute owner of the property and he is in peaceful possession and enjoyment of the same. The grievance of the writ petitioner is that he has submitted an application for grant of patta before the Tahsildar, Gingee Taluk, Gingee and subsequently filed a writ petition in W.P.No.43 of 2015 and this Court directed the Tahsildar to consider the representation and accordingly, the Tahsildar passed an order in proceedings dated 07.04.2015, which is impugned in the present writ petition. The Tahsildar in his order dated 07.04.2015 recorded the fact that the civil suit in OS.No.11 of 2015 is pending before the Principal District Munsif Court, Gingee and the same is to be adjudicated on merits and only in the event of a Judgement from the civil court, the claim of the writ petitioner for grant of patta shall be considered.

3. The learned Government Advocate appearing on behalf of the respondents made a submission that out of 2.20.0 acres in SF No.14/11 of Uranithangal Village, Gingee Taluk, Villupuram District, 0.12.0 are classified as "Natham" and allotted to houseless poor persons numbering 20. The said land was allotted on account of the fact that those poor people were aggrieved because of the eviction of Krishnapuram "B" Lake and an alternate land has been provided. Thus, the request of the petitioner for grant of patta cannot be considered. At the outset, the learned Government Advocate pleaded that the land in question is Natham land and the petitioner is not entitled to get patta in respect of the said Natham land and the portion of the land has already been allotted to the poor landless people on account of the eviction in Krishnapuram. This apart, the civil suit instituted by the parties concerned are pending before the court. Under these circumstances, the decision taken by the Tahsildar not to grant patta is in accordance with law.

4. Section 3 of the Patta Passbook Act, 1983 enumerates that Patta Passbook can be granted only to the owner. Thus, in the event of establishing that the person is the absolute owner of the property, then only the application for patta can be considered. In the event of any dispute between the parties in respect of an immovable property, then the competent revenue officials can consider the application for grant of patta only after the conclusion of the civil disputes pending before the competent civil court between the parties.

5. This court is of an opinion that the revenue officials are incompetent to adjudicate the title, ownership or possession of the immovable properties. The revenue officials cannot adjudicate the civil rights of the respective parties in respect of the immovable properties. Only in the event of establishing that the person is the owner of the property, then alone patta can be granted under the provisions of the Patta Passbook Act, 1983. Admittedly, the civil suit is pending in respect of the property, which is the subject matter of the present writ petition.

6. Such being the factum, the claim of the writ petitioner for grant of patta cannot be considered at all. It is left open to the writ petitioner to adjudicate his title, ownership or possession before the competent civil court of law and only in the event of conclusion of such civil litigations, then only authorities competent are empowered to consider grant of patta passbook under the provisions of the Act.

7. This being the legal principles to be followed, the order of rejection dated 07.04.2015 issued by the Tahsildar, Gingee Taluk, Gingee is in accordance with law and there is no infirmity as such. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
Vilulpuram District, सत्यमेव जयते
Villupuram.
2. The Tahsildar,
Gingee Taluk,
Gingee,
Villupuram District.

+1cc to M/S.Sai, Bharath & Ilan, Advocate Sr.45937
+1cc to the Government Pleader Sr.46550

W.P.No. 12369 of 2015

nm[co]
srg 30/07/2018