

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	06/03/2018
Delivered on	19/03/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.32970 of 2013 &
M.P.No.1 of 2013

M.Sabjan, Secretary,
Dowladbad Sunnath Jamath Masjid,
Salem Road, Dowladabad - 635 001,
Krishnagiri. ... Petitioner

Vs.

1. The State of Tamil Nadu, represented by its
Secretary to the Government,
Revenue Department,
Fort St. George, Chennai - 600 009.
- 2.The special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai - 600 005.
- 3.The District Collector,
District Collectorates Office,
Krishnagiri District.
- 4.The Tahsildar,
Krishnagiri Town and Post,
Krishnagiri District.
- 5.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffar Serang Street,
Chennai - 600 001.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Mandamus, directing the respondents to rectify the defects which
have crept in the revenue records by re-classifying the lands as
patta lands ad-measuring 3.74 acres of Kathiganaballi Village
within the Municipal limits of Krishnagiri Town, bearing Survey
No.182 belonging to the Dowladbad Sunnath Jamath Masjid, Salem
Rd, Dowladabad - 635 001, Krishnagiri District.

For Petitioner : Mr.M.J.Jaseem Mohammed

For Respondents : Mr.N.Inbanathan
Additional Government Pleader
for R1 to R4
Ms.Abitha Banu for R5

O R D E R

Heard Mr.M.J.Jaseem Mohammed, learned counsel for the petitioner; and Mr.N.Inbanathan, learned Additional Government Pleader for the respondents 1 to 4 and Ms.Abitha Banu, learned counsel for the fifth respondent and perused the records.

2. The petitioner has come forward with this Writ Petition seeking issuance of Writ of Mandamus directing the respondents to rectify the defects, which crept in the revenue records by reclassifying the land as patta land.

3. This Writ Petition has been filed by the Secretary of Dowlabad Sunnath Jamath Masjid contending that the Government had assigned land measuring an extent of 3.74 acres of Kathiganaballi Village bearing Survey No.182 in the year 1956 in favour of the petitioner Jamath. But, later it was wrongly classified as Kallanguthu poramboke. It is the further case of the petitioner that on the basis of the representation, the first respondent by his Communication dated 23.09.1975 directed the fourth respondent to enquire into the matter and issue patta in favour of the petitioner, despite the same, no action was taken. Hence, the present Writ Petition.

4. In the counter affidavit filed by the first respondent, it is stated that the land in S.F.No.182 has an extent of 1.51.5 hectares (3.74 acres) of Kattiganapalli Village of Krishnagiri Taluk, which has been classified as Kallanguthu poramboke in Government Records. Out of which, an extent of 0.77.79 hectares (1.92 acres) was alienated to National Highway Authority of India (NHAI) for widening of NH7 and the work was also completed. An another extent of 0.55.81 hectares (1.38 acres) was already under the occupation of 80 landless poor people for more than 30 years. The remaining 0.17.90 hectares (0.44 cents) is encroached by the petitioner by way of constructing the Eidga. It is further stated that reclassification of the land could not be made in view of the Government Orders in G.O.Ms.No.589, CT & RE Department, dated 14.05.1975 and G.O.Ms.No.370, CT & RE Department, dated 03.10.1974 and G.O.Ms.No.1889, CT & RE Department, dated 24.12.1976.

5. In the counter affidavit filed by the fifth respondent, it has been stated that the property is a wakf property and the petitioner is in possession of the property for time immemorial and the same is used for offering prayers. Hence, there is no justification to reclassify the land as Kallanguthu poramboke and the petitioner is entitled for issuance of patta.

6. The learned counsel for the petitioner submitted that the first respondent by an order dated 07.02.1976 issued positive direction to the fourth respondent for transfer of the said land based on the Government Order No.1900, Revenue, dated 20.11.1974, but the fifth respondent has deliberately delayed the process and hence, the petitioner was entitled to succeed in this Writ Petition.

7. The learned Additional Government Pleader submitted that the entire land is not under possession and enjoyment as alleged by the petitioner. It is further submitted that out of total extent of 3.74 acres, a road was laid by the National Highways Authority of India to an extent of 1.92 acres and more than 80 families have already encroached lands and they have started residing therein about 30 years ago by putting up houses and huts and sought appointment of an Advocate Commissioner to note down the physical feature of the property in dispute.

8. In reply, though the learned counsel for the petitioner submitted that the entire property is under the occupation of the petitioner, hence, appointment of an Advocate Commissioner is not required in this case.

9. This Writ Petition has been filed on the basis that pursuant to the assignment, the land to an extent of 3.74 acres in Survey No.182 of Kathiganapalli Village in the year 1956, the petitioner has been in possession and enjoyment of the same. Except these vague allegations, no materials has been produced by the petitioner to establish that the land was assigned in their favour in the year 1956 and they have been in continuous possession for time immemorial.

10. It is not in dispute that the land is situated in the municipal limit of Krishnagiri and G.O.Ms.No.3166, Revenue, dated 05.11.1966, bans assignment of lands within the radius of 8 kms of town limit. It is to be further noted that the letter of the petitioner dated 23.09.1975 was forwarded by the District Collector, Dharmapuri to the fourth respondent taking necessary action and there is no direction issued by the District Collector to the Tashildar to issue patta in favour of the petitioner.

11. Taking note of the above facts, I find no merits in this Writ Petition. Accordingly, the Writ petition fails and the same is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Revenue Department,
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Tamil Nadu Wakf Board,
Jaffar Serang Street,
Chennai - 600 001.

+lcc to Mr.J.Jaseem Mohammed, Advocate SR.No.20696

+lcc to Government Pleader SR.No.21396

SSV(CO)

sm:6.4.2018

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