

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4774 of 2006

- 1.K.Rayappan (Deceased)
- 2.R.Banumathy
- 3.Sarojini
- 4.Subramanian

(P2 to P4 are substituted as LR's of the deceased P1 as per the order of this Court dated 09.11.2017 made in W.M.P.No.30458 of 2017 in W.P.No.4774 of 2006)

.... Petitioners

Vs.

- 1.The Revenue Divisional Officer,
Tirupur,
Coimbatore.

- 2.K.Chenniappan
- 3.Unnathal
- 4.K.Ganesan
- 5.K.Balasubramaniam
- 6.K.Velusamy
- 7.K.Vanithamani

(R2 to R7 are impleaded as per the order of this Court dated 08.12.2017 in W.P.M.P.No.199 of 2013 in W.P.No.4774 of 2006)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in his Proceedings in Na.Ka.No.9199/2001/A2 dated 01.02.2006 and quash the same.

For Petitioner
For Respondents

: Mr.N.Anand Venkatesh
: Mr.K.Ravikumar for R1
Additional Government Pleader
Mr.N.Manokaran for R2 to R7

O R D E R

This writ petition has been filed challenging the order of the first respondent dated 01.02.2006 in Na.Ka.No.9199/ 2001/A2.

2.The first respondent in the impugned order issued to the first petitioner has stated that it is known that the first petitioner has been taking water from the Well in S.No.254/9 using electric motor for commercial purpose. The first respondent further prohibited him from drawing water from the said Well through electric motor for commercial purpose stating that the said well is situated in the Poromboke land belonging to the Government and also warned that legal action would be taken against the person who takes water from the said Well for commercial purpose.

3.The case of the petitioners is that the first respondent has granted patta dated 22.09.1938 to one Karuppa Gounder/ father of the first petitioner in respect of the land in S.No.169-B measuring an extent of five cents and the said Karuppa Gounder also owned lands adjacent to the said patta land. The Highways Department in the year 1968 had granted permission to the said Karuppa Gounder to take pipe line from the well situated in S.No.169-B to the adjacent fields. The said lands were in possession of the said Karuppa Gounder and thereafter, the first petitioner acquired possession and was in enjoyment of the same.

4.In the year 1994, the first petitioner applied for electricity connection from the Electricity Board for drawing water from the Well using current. The Board asked the first petitioner to get ownership certificate from the Village Administrative Officer. Hence, the first petitioner applied for the ownership certificate and thereafter, he came to know that the said place has been reclassified in S.F.No.254/9 as Natham poromboke in the year 1991. The first petitioner produced all the relevant records relating to his ownership in respect of the said lands, however, the Village Administrative Officer expressed his helplessness and advised the first petitioner to give application to the land Tax Officer, Tharapuram.

5.Hence, the first petitioner applied to the land Tax Officer and the land Tax Officer vide his letter dated 31.03.1998 directed the first petitioner to approach the Sub Collector. Hence, the first petitioner made an application before the Sub Collector and the Sub Collector vide order dated 30.12.1999 rejected the said application on the ground that the land over which the Well is situated is classified as Natham and no patta can be issued as per the Rules. Aggrieved by the same, the first petitioner preferred appeal before the District

Revenue Officer and the District Revenue Officer vide order dated 14.06.2000 dismissed the appeal.

6. Aggrieved by the same, the first petitioner filed writ petition in W.P.No.18642 of 2001 before this Court challenging the order of the Authorities and for consequential direction to the Authorities to grant patta in respect of the lands. The first petitioner has been utilising the Well situated in the above said land for drawing water to the fields and was also transporting the same to dyeing units at Tiruppur. Whiles, the first respondent has passed the impugned order directing the petitioner to stop drawing water from the Well. Hence, the first petitioner has filed this writ petition during the pendency of the said writ petition.

7. Heard both sides.

8. Perusal of the typed set of papers would disclose that this Court allowed the writ petition in W.P.No.18642 of 2001 vide order dated 26.08.2010 and set aside the order impugned therein and directed the respondents 1 to 3 therein to restore the patta for the property in the name of the person in whose name it stood prior to 1991 and further directed that it shall be transferred in the name of the person who establish title before the Civil Court. In other words, patta shall be transferred subject to the outcome of the civil suit relating to title.

9. Perusal of the typed set of papers also would disclose that the respondents 2 to 7 herein along with one another person have filed a suit in O.S.No.80 of 2000 on the file of the District Munsif Court at Palladam, for declaration declaring that the lease deed dated 17.10.1997 and general power of attorney are null and void and are not binding on the plaintiffs and for consequential injunction, as against the first petitioner herein and one another person.

10. The fourth respondent herein has filed counter stating that the suit in O.S.No.80 of 2000 was withdrawn and a fresh suit in O.S.No.2170 of 2013 was filed. The said plaint was rejected in I.A.No.254 of 2014 dated 17.07.2014 and the same was confirmed in A.S.No.08 of 2015 dated 22.06.2016, against which S.A.No.702 of 2017 has been filed before this Court and the same is pending.

11. In view of all the above, this Court is inclined to set aside the impugned order and remit the matter back to the first respondent for fresh consideration. Accordingly, the impugned order of the first respondent dated 01.02.2006 made in Na.Ka.No.9199/ 2001/A2 is set aside and the matter is remitted

back to the first respondent for fresh consideration. The petitioners and the private respondents are directed to file the relevant documents before the first respondent. On receipt of the same, the first respondent shall consider the same and pass appropriate orders, in accordance with law.

12.The writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm/pri

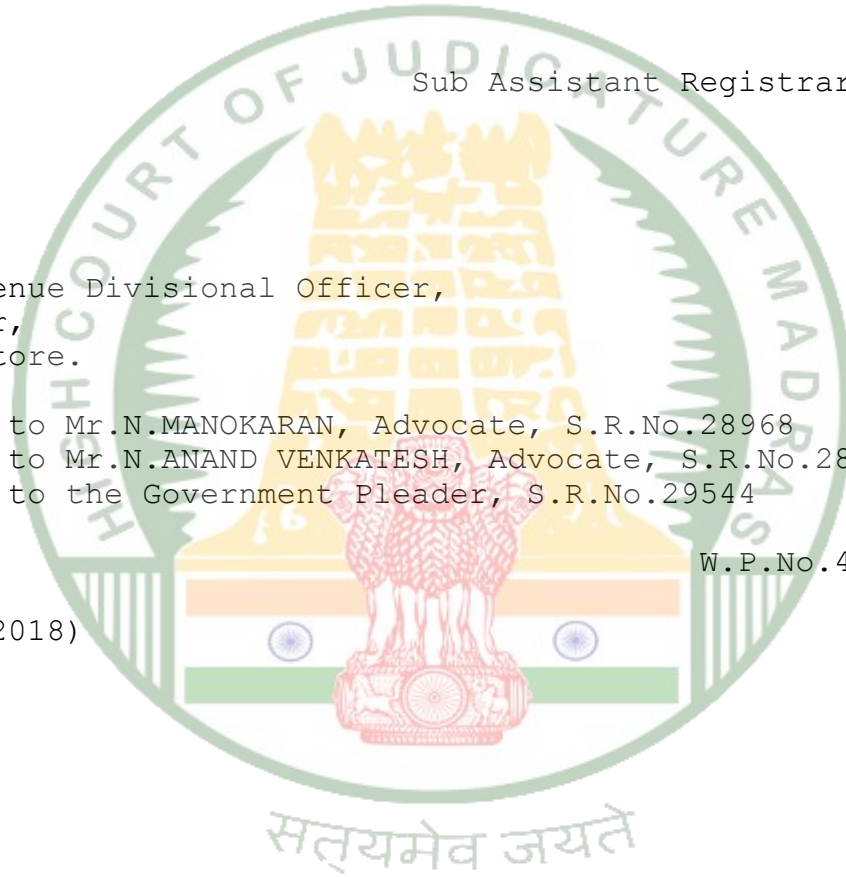
To

1.The Revenue Divisional Officer,
Tirupur,
Coimbatore.

+1cc to Mr.N.MANOKARAN, Advocate, S.R.No.28968
+1cc to Mr.N.ANAND VENKATESH, Advocate, S.R.No.28975
+1cc to the Government Pleader, S.R.No.29544

W.P.No.4774 of 2006

TR(06/06/2018)



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