



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.1628 of 2018

WEB COPY

L.Alagarsamy

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Sattur,
Virudhunagar District.

3.The Revenue Tahsildar,
Rajapalayam,
Virudhunagar District.

... 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 register the Patta for the Survey No.326/12/A1/A2 situated in Chettiyarpatti Panchayat Union, Rajapalayam Town, Virudhunagar District in the name of the petitioner's Community people.

For Petitioner

: Mr.R.Venkatesan

For Respondents

: Mr.Ayiram K.Selvakumar,

Additional Government Pleader

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to register the patta in survey No.326/12/A1/A2 situated in Chettiyarpatti Panchayat Union, Rajapalayam Town, in the name of the petitioner's community people.

2.The learned Counsel for the petitioner states that the writ petitioner is in possession of the properties for a considerable length of time and is continuing for more than 4 decades in the said property and on that ground the present claim is made for issuance of patta before the respondents.

3.The patta has to be issued and necessary entries in the revenue records are to be made only under the provisions of the Tamil Nadu Patta Pass Book Act, 1983 and Rules thereon. Section 26 of the Act defines the word "Owner". Owner means any person holding the land in severalty or jointly or in combination under the residuary settlement or in any way subject the payment of revenue direction to the Government which includes the full owner or limited owner, but it does include the mortgage or lessee or tenant. Section 3 provides, issuance of patta pass book, the Tahsildar shall issue the patta pass book to every person in respect of the land



owned by him on application made by him in this behalf. Any application received under this Section shall be acknowledged by the Tahsildar or another officer authorised by him in this behalf.

4. Thus, it is made clear that patta has to be issued to the owner of the property and on production of all necessary documents before the competent authorities namely the Tahsildar. Mere possession or occupation of a property for longtime, will not confer any right on the person who claims patta. So also, if a person is an occupier and not owner, cannot be issued with patta pass book. Thus, the patta and necessary entries in the revenue records are to be made only in accordance with the provisions of the said Act and the Rules there on.

5. The writ petitioner has not established even semblances of legal rights so as to consider his right for issuance any direction to the respondents to register patta for a particular survey number. Such prayer cannot be undertaken in the absence of establishing any legal right. Title or ownership, has to be established through the competent authority and this Court cannot entertain any writ petition in respect of deciding the factum regarding the ownership or otherwise of a person.

6. The learned Counsel for the writ petitioner made submissions that the writ petitioner has made a representation and the same shall be directed to be considered by the authorities. Even for issuance of any such direction, the writ petitioner has to establish legal right. It is not as if a person can submit a representation to the competent authorities and file a writ petition to consider the same. It is necessary that such person submitting a representation to the competent authorities has to establish his legal right so as to issue any such direction.

7. The very purpose of a writ of mandamus is for issuance of direction against the inaction of a public authority in the event of establishing legal right by the claimant. Thus, the present writ petition filed without establishing any legal right can not be entertained.

8. In the result, the writ petition stands dismissed. However, there shall be no orders as to costs.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub-Assistant Registrar



To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Sattur,
Virudhunagar District.

3.The Revenue Tahsildar,
Rajapalayam,
Virudhunagar District.

+One cc to M/s.Right Law Associates, Advocate, SR.No.44549

+One cc to The Special Government Pleader, SR.No.44774

dsk
RL/6C/3P/SKN/RSK/SAR1/23/2/2018

ORDER MADE IN

W.P (MD) No.1628 of 2018

29.01.2018