



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2018

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.2493 of 2018

and

W.M.P. (MD) Nos.2688, 2689 and 7049 of 2018

Selvaraj

... Petitioner

-Vs-

1. The Revenue Divisional Officer,
Usilampatti,
Madurai District.

2. The Inspector of Police,
Kallikudi Police Station,
Kallikudi,
Madurai District.

3. Guruvammal

... Respondents

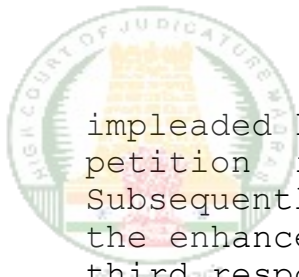
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in Mu.Mu.No.1981/2017/Aa4, dated 19.10.2017 passed by the first respondent and quash the same.

For Petitioner	: Mr.R.Murugappan
For R-1 & R-2	: Mrs.J.Padmavathi Devi Special Government Pleader
For R-3	: Ms.T.K.Akalya for Mr.S.Thamizharasan

ORDER

Challenging the order of the Revenue Divisional Officer, Usilampatti, Madurai District, in proceedings Mu.Mu.No.1981/2017/Aa4 dated 19.10.2017, the petitioner is before this Court.

2. According to the petitioner, his father possessed the patta in respect of a part of the land acquired by the Government. Originally, the award was passed on 21.09.1992. His father filed a petition in land acquisition proceedings in L.A.O.P.No.73 of 1998 for enhanced compensation. After his demise, his legal heirs were



impleaded before the IV Additional District Court, Madurai, and the petition in L.A.O.P.No.73 of 1998 was allowed on 21.09.2003. Subsequently, an Execution Application was filed for disbursement of the enhanced award amount. During the pendency of the execution, the third respondent herself claimed that she is the title holder of the land acquired by the Government, for which, the petitioner filed his objection. Thereafter, the petition was preferred to the first respondent, who passed the impugned order, awarding compensation to the third respondent. The first respondent has no jurisdiction to decide the title of the property. Since the original award was received by his father, the enhanced compensation should also be disbursed to him and therefore, the impugned order is liable to be set aside.

3. Per contra, the learned counsel appearing for the third respondent would submit that the third respondent has purchased the property by way of a registered sale deed as early as on 19.02.1977. Patta, chitta and adangal were all standing in her name. The Encumbrance Certificate dated 12.07.2016 would also reveal that the third respondent is the title holder of the property and the petitioner is not the owner of the property or tenant or lessee.

4. This Court has directed the first respondent to produce the files. On verification of the files, it is seen that the petitioner's father's name was included in the revenue records. Without there being any proceedings for the same, the revenue officials were unable to comprehend as to how the name was included in the revenue records. There are no documents of title to include the petitioner's father's name in the revenue records. It is recorded that by some mistake, the name of the petitioner's father has been included in and the third respondent is the original owner, since all the revenue records stand her name.

5. On the petition filed before the first respondent, the first respondent called for enquiry under Section 145 Cr.P.C.. Notice was issued to both sides. During the enquiry proceedings, the third respondent has produced the sale deed and revenue records including payment of tax, whereas, the petitioner neither appeared for enquiry, nor submitted any document. Therefore, in the proceedings under Section 145 Cr.P.C., the first respondent has found that the third respondent is the only title holder of the property and thereby, declared that she alone is entitled to the compensation.

6. On hearing the rival contentions and after perusing the files produced by the official respondents and the respective documents submitted by the contesting respondents, it could be seen that ever since the purchase of the property in the year 1977 by a registered sale deed, the third respondent appears to be in possession and enjoyment of the property. The petitioner could not produce any document of title to substantiate his claim. In the absence of any documentary evidence, the petitioner cannot sustain any claim over the property, much less, to the compensation awarded



for acquiring the property. The contention of the petitioner that his father was the owner of the property, is not supported by any document and, therefore, the finding of the first respondent that the records show that the third respondent is the title holder is correct in the eye of law. Even though it is well settled that the first respondent is not competent to decide the title, in the enquiry proceedings under Section 145 Cr.P.C., in my considered view, the said finding cannot be said to be without substance. However, the third respondent shall not be forced to undergo the ordeal of trial before the Civil Court for redressal of her grievances.

7. In such circumstances, the burden is on the petitioner to establish their title before a competent Civil Court to claim compensation. Liberty is granted to the petitioner to file a suit invoking Section 15(3) of the Limitation Act, 1963, and pursue his / their remedy.

8. The Writ Petition is dismissed with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-1)

To

1. The Revenue Divisional Officer,
Usilampatti,
Madurai District.

2. The Inspector of Police,
Kallikudi Police Station,
Kallikudi,
Madurai District.

+ 1 CC TO Mr.R.MURUGAPPAN, ADVOCATE IN SR No. 67724
+ 1 CC TO Mr.S.THAMIZHARASAN, ADVOCATE IN SR No. 67688

SM

TE/SKN/SAR-1 : 24/07/2018 : 3P/5C

Order made in
W.P. (MD) No.2493 of 2018
11.06.2018