



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No.9820 of 2014
and
MP (MD) Nos.1 and 2 of 2014

Alagarsamy

.. Petitioner

Vs.

1.The District Collector,
Theni District.

2.The District AD / ST Welfare Officer,
Theni, Theni District.

3.The Special Tahsildar,
Adi-Dravidar Welfare Department,
Theni, Theni District.

4.Panchavarnam

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records relating to the impugned order of the 3rd respondent in ref.Na.Ka.No.559 12/A2 on 12.3.2013 and quash the same.

For Petitioner : Mr.G.Ganeshkumar

For R1 to R3 : Mr.A.K.Baskarapandian
Special Government Pleader

For R4 : No appearance

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

The primary challenge in this writ petition is to the order granting patta to the fourth respondent notwithstanding the cancellation of the patta earlier.



2. Heard the learned counsel for the petitioner and the learned Special Government Pleader on behalf of the respondents 1 to 3. None appears on behalf of the fourth respondent, in spite of printing the name of the counsel in the cause-list.

3. The property in Plot No.68 in S.No.584/1A, Kovilpatti village, Then District is stated to be a Government land. According to the petitioner, suppressing the fact that she is in possession of patta land elsewhere, the fourth respondent filed an application for patta and accordingly, she was given patta. The local people opposed the grant of patta and the same resulted in cancelling the patta by the second respondent by order dated 12.03.2010.

4. The fourth respondent, thereafter filed a suit for injunction in O.S.No.27 of 2010 before the District Munsif Court, Andipatti, impleading certain persons who were closed to her. The suit was decreed. The fourth respondent produced the decree dated 30.03.2012 in O.S.No.27 of 2010 before the third respondent and obtained a fresh patta. The order granting patta pursuant to the decree in O.S.No.27 of 2010 is under challenge in this writ petition.

5. The proceedings dated 12.03.2010 on the file of the second respondent indicates that the patta granted to the fourth respondent was cancelled. The third respondent once again granted patta in favour of the fourth respondent on the basis of the decree in O.S.No.27 of 2010. The said suit was not a suit for declaration. It was a simple suit for injunction. The decree granted in the injunction suit by the civil Court was produced by the fourth respondent before the third respondent. The third respondent without understanding the nature of the decree, granted patta in favour of the fourth respondent.

6. The Revenue Divisional Officer is the appellate authority under the Patta Passbook Act. The petitioner has come up with this writ petition within a reasonable time, after the grant of patta in favour of the fourth respondent. We, therefore, direct the District Collector, Theni District to forward the representation submitted by the petitioner on 02.06.2014 to the jurisdictional Revenue Divisional Officer.

7. The Revenue Divisional Officer must consider the representation submitted by the petitioner against the grant of patta to the fourth respondent and pass appropriate orders on merits. In case, the civil Court decree was a simple decree of injunction and not a decree of declaration, the same should also be taken note of by the Revenue Divisional Officer for deciding the question, as to whether on the basis of such a decree, patta could be granted to the fourth respondent. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this order. It is needless to mention that notice should be issued to the fourth respondent also before passing orders by the Revenue Divisional Officer.



WEB COPY

3

8. The writ petition is disposed of with the above direction.
No costs. Consequently, MP(MD) Nos.1 and 2 of 2014 are closed.

Sd/

Assistant Registrar (WRITS)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The District Collector,
Theni District.

2. The District AD / ST Welfare Officer,
Theni,
Theni District.

3. The Special Tahsildar,
Adi-Dravidar Welfare Department,
Theni,
Theni District.

4. The Revenue Divisional Officer,
Theni.

+1cc to Special Government Pleader, Sr.No.95402.

W.P. (MD) No.9820 of 2014
14.11.2018

mj

RAM-KK/RSK/SAR 4/21.12.2018/2P/6C