

In the High Court of Judicature at Madras

Dated : 13.2.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal No.342 of 2019 & CMP.No.3373 of 2019

Chinna Krishnappa ...Appellant

Vs

1.The District Collector, Krishnagiri
District, Krishnagiri.

2.The Tahsildar, Hosur, Krishnagiri
District.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the order dated 26.9.2018 made in W.P.No.20269 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to issue patta in favour of the petitioner in Bopallapuram Village Hosur Taluk Krishnagiri District bearing Survey Numbers 16/1 16/2 16/3 16/4 16/5 measuring 1.14 0.48 0.15 0.24 0.19 hectares respectively.

For Appellant : Mr.C.Samuel

For Respondents : Mr.R.P.Prathap Singh, GA

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.C.Samuel, learned counsel for the appellant and Mr.R.P.Prathap Singh, learned Government Advocate accepting notice for the respondents.

2. This appeal is directed against the order dated 26.9.2018 in W.P.No. 20269 of 2014.

3. The said writ petition was filed by the appellant - writ petitioner praying for the issuance of a direction to the respondents to issue patta in favour of the appellant in Bopallapuram Village, Hosur Taluk, Krishnagiri District bearing Survey Nos.16/1, 16/2, 16/3, 16/4 and 16/5 measuring 1.14, 0.48, 0.15, 0.24 and 0.19 hectares respectively.

4. The learned Single Judge, by the impugned order dated 26.9.2018, dismissed the said writ petition assigning several reasons, the first of which being that the lands in question were classified as anadheenam/paarai. Furthermore, the Authorities filed a report stating that the lands in S.Nos. 16/1, 16/3 and 16/4 were classified as anadheenam lands in the revenue records and remained as a waterway to drain rain water to Bopallapuram lake and that S.Nos.16/2 and 16/5 also remained as waterway to drain rain water to Bopallapuram lake. Considering this fact, the prayer sought for in the said writ petition stood rejected. Apart from that, certain directions were issued by the learned Single Judge to the District Collector to identify the encroachments in the water bodies and take appropriate action in terms of the directions issued by the Writ Court in another writ petition.

5. The learned counsel for the appellant has vehemently contended that a false representation was made by the officials before the learned Single Judge stating that the property in question is a water way and that the appellant was an encroacher. The appellant rests his case based upon the proceedings of the Special Tahsildar, Hosur Taluk dated 10.12.1974, which states that the appellant is entitled to be a lessee in the property in question for the purpose of cultivating mulberry. The appellant claims that from the year 1974 onwards, he continues to remain in possession of the property in question and therefore, has requested for grant of patta.

6. In our considered view, the case set up by the appellant is thoroughly misconceived. Even assuming that the Special Tahsildar, Hosur had power to grant lease in the year 1974, the status of the appellant can never become that of a owner of the property to claim patta to be issued in his name. In any event, the lands in question are stated to be anadheenam lands and remain as a water way to drain rain water to a lake. In such circumstances, the appellant cannot continue to remain in possession and also simultaneously seek for grant of patta.

7. The learned Government Advocate has produced photographs to show that the order passed in the said writ petition dated 26.9.2018 has been implemented, that the appellant has been evicted and that the Tahsildar, Hosur has also placed a board in the property in question.

8. Considering the above facts, we find that the learned Single Judge was fully justified in declining to grant the relief as sought for.

9. Accordingly, the above writ appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

RS

To

1.The District Collector, Krishnagiri District,
Krishnagiri.

2.The Tahsildar, Hosur, Krishnagiri District.

+1cc to Mr.C.Samuel , Advocate SR.No. 12599

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CMP.No.3373 of 2019

A.SK(08/03/2019)



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