

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.11.2019
Coram

The Honourable Mr.Justice D.Krishnakumar

W.P.No. 20892 of 2008
and
M.P.No.2 of 2008
and
W.M.P.No.386 of 2017

R.Narayanasamy

...Petitioner

Vs.

1. The District Revenue Officer,
Coimbatore District, Coimbatore.

2. The Revenue Divisional Officer,
Coimbatore.

3. The Tahsildar,
Coimbatore North,
Coimbatore District.

4. R.Soundarrajan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the order of the first respondent dated 02.03.2008 in Mu.Mu.No.34536/07/E2, and to quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents 1 -3: Mr.B.Anand
Government Advocate

For Respondent-4 : Mrs.P.Indumathi

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O R D E R

The petitioner has filed this Writ Petition seeking to quash the order passed by the first respondent, dated 02.03.2008.

2. The case of the petitioner, as stated in the affidavit, filed in support of the Writ Petition in short is as follows:-

i) The petitioner is the owner of the land in S.No.307, at Kondayampalayam, adjacent to the said land, the petitioner is also in possession and enjoyment of the Natham land, comprised in S.No.532/1, measuring 227 sq.mts for more than 50 years, and he is also paying house tax to the Revenue Department. While that being so, the fourth respondent, who is the distant relative of the petitioner, in order to grab the property in S.No.532/1 from the petitioner, attempted to get patta in his name. Hence, the petitioner raised objection before the third respondent for grant of patta in the name of the fourth respondent. The third respondent, on enquiry, found that the petitioner is in possession of 120 sq.mts of land in S.No.532/1 and the fourth respondent is in possession of 107 sq.mts of land and accordingly, issued a joint patta in the name of the petitioner and the fourth respondent, vide order dated 26.05.2006. Against the same, the fourth respondent filed an appeal before the second respondent and the second respondent after enquiry and investigation, vide order, dated 07.07.2007, confirmed the order of the third respondent. Against which, the fourth respondent filed a Revision Petition before the first respondent claiming individual patta for the entire extent of 227 sq.mts in S.No.532/1. But the first respondent held that both the petitioner and fourth respondent are not entitled for joint patta in respect of the property in S.No.532/1 and ordered for cancellation of joint patta issued in favour of the petitioner and the fourth respondent, vide order, dated 02.03.2008. Aggrieved by the said order of the first respondent, the petitioner has filed this Writ Petition.

3. Mr.K.Selvaraj, the learned counsel appearing for the petitioner has submitted that the petitioner is in possession and enjoyment of the natham land in S.No.532/1 for more than five decades and has been paying the house tax in respect of the said property. Though the fourth respondent is not entitled for the joint patta, since, he being the distant relative of the petitioner, the petitioner accepted for issuance of joint patta in his name and the fourth respondent. But, the first respondent, without considering the oral and documentary evidence and the concurrent findings of the second and third respondents, wrongly held that both the petitioner and the fourth respondent are not entitled for joint patta and cancelled the joint patta issued in the name of the petitioner and fourth respondent, which is illegal and arbitrary and liable to be set aside.

4. Mr.B.Anand, the learned Government Advocate for the respondents 1 to 3 justified the order passed by the first respondent by stating that since there is no sufficient documentary evidence available to prove the claim of the petitioner and the fourth respondent that they were in possession and enjoyment of the property and as per the natham records, the property was mentioned as vacant property, the first respondent rightly rejected claim of the petitioner, by leaving it open to the parties to approach the Civil Court to establish their rights over the property, and the same is valid and requires no interference

5. Per contra, Mrs.P.Indumathi, the learned counsel appearing for the fourth respondent submitted that the fourth respondent is in possession and enjoyment of the property in S.No.532/1, and he applied for issuance of patta in his name, but, the third respondent wrongly issued joint patta in the name of both the petitioner and fourth respondent and aggrieved by the same, the fourth respondent filed appeal before the second respondent, who also wrongly confirmed the order of the third respondent and aggrieved against the same, the fourth respondent filed Revision Petition before the first respondent seeking issuance of individual patta in his favour, whereas, the first respondent wrongly came to the conclusion that the property is described as vacant land in the natham records, and hence, both the petitioner and the fourth respondent are not entitled for the claim. However, since the first respondent left the parties to work out their remedy before the Civil Court, the fourth respondent has not challenged the order passed by the first respondent.

6. Heard the learned counsel for the parties concerned and perused the materials on record.

7. On perusal of the impugned order, it is seen that though the petitioner has produced certain documents as proof to show that he is in continuous possession and enjoyment of the property in S.No.532/1, however, since as per the natham records, the property is described as vacant land, the first respondent rejected the claim of the petitioner, leaving open to the parties to work out their remedy before the Civil Court, and this Court, while sitting under Article 226 of the Constitution of India cannot go into the disputed question of fact and such issue can be resolved before the Civil Court by allowing the parties to let in evidence.

8. In the result, the Writ Petition stands dismissed. However, liberty is granted to the petitioner to approach Civil Court to work out his remedy, if he is so advised. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The District Revenue Officer,
Coimbatore District,
Coimbatore.
2. The Revenue Divisional Officer,
Coimbatore.
3. The Tahsildar,
Coimbatore North,
Coimbatore District.

+lcc to Mr.K.Selvaraj, Advocate sr.91018
+lcc to Mrs.P.Indumathi, Advocate sr.91321
+lcc to Government Pleader SR.NO. 91152

W.P.No.20892 of 2008

mp(co)
nr 17/02/2020

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