



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2019

CORAM

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

W.P. (MD) No.4671 of 2012
and M.P. (MD) No.1 of 2012

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Church of South India,
Diocese of Madurai and Ramnad
represented by its Secretary,
M.joseph, S/o.Mariya Louise,
CSI Diocessan Office,
Raktshaniyapuram,
Alagarkoil Road,
K.Pudur, Madurai-625007.

... Petitioner

Vs.

1.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

2.D.Mahalakshimi

3.S.Duraiiraj

4.Ramraj

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings bearing No.Na.Ka.B2/20386/09, dated 10.03.2012 issued by the first respondent and quash the same.

For Petitioner : Mr.B.Prasanna Vinoth

For R1 : Mr.A.Muthurkaruppan,
Additional Government Pleader.

For R2 to R4 : Mr.S.Visvalingam

ORDER

This Writ Petition has been filed to quash the proceedings in No.Na.Ka.B2/20386/09, dated 10.03.2012 issued by the first respondent herein.

2.The petitioner is a religious institution running number of educational institutions. The dispute in the present writ petition
<https://hcservices.ecourts.gov.in/hcservices/>



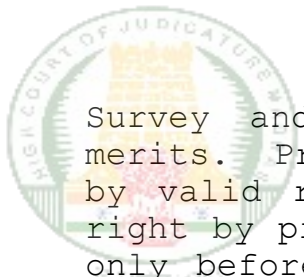
is in respect of an extent of 5 cents in survey No.101/39 situated at Pambatti Village, Kariyapatti, Virudhunagar District. The petitioner claims that the land in part of School run by the petitioner. It is the case of the petitioner that originally the School was run by one American Mission. It is submitted that the said mission purchased 17 cents of land by a registered sale deed in the year 1899 from one Arumugam Mudaliar and that the northern boundary of the School belonged to one Thangappa Mudaliar who had orally gifted the said land to the School. Since the petitioner was in enjoyment of 17 cents by virtue of the sale deed and the remaining 5 cents on the basis of oral gift, it is stated that the petitioner is in absolute enjoyment of the land.

3.It is also admitted that the respondents 3 and 4 have raised some dispute. Though the petitioner was given patta under UDR for the entire extent of 22 cents, the first respondent earlier passed an order on 30.09.2008, in favour of the third and fourth respondents, without giving opportunity to the petitioner. The order of the first respondent was earlier challenged before this Court by the petitioner. This Court, allowed the writ petition, however, remitted the matter back to the first respondent to pass appropriate orders, after giving opportunity to the petitioner as well as the interested persons. Thereafter, the impugned order is passed by the first respondent justifying the order of cancellation of patta.

4.The learned counsel appearing for the petitioner submitted that the first respondent has passed the same order, even after the direction of this Court in the earlier Writ Petition filed by the petitioner in W.P.(MD)No.4886 of 2009, dated 26.04.2010. It is submitted by the learned counsel for the petitioner that the first respondent failed to see that the document produced by the third and fourth respondent,s do not specifically refers to the dispute property. It is also submitted by the learned counsel for the petitioner that the third and fourth respondent traced their title from Thangappa Mudaliar from whom the petitioner acquired the northern property. This Court cannot decide the title in a case relating to transfer of patta.

5.It is admitted by the petitioner that only an extent of 17 cents, was purchased from the owner in the year 1899. Though, it is submitted that oral gift for five cents was obtained by the petitioner earlier, the petitioner has not even submitted that patta for 22 cents was obtained on the basis of any oral gift that was relied upon in the present proceedings. The first respondent did not commit any mistake or illegality while preparing records. The first respondent heard the writ petitioner as per the direction of this Court in the earlier writ petition.

6.A reading of the impugned order shows that the first respondent relied upon the report of the Assistant Director of Land



Survey and other revenue officials, before passing orders, on merits. Prima facie, the order of the first respondent is supported by valid reasons. Hence, the petitioner is unable to prove his right by producing documents and the petitioner can seek his remedy only before the Civil Court, in the manner known to law. It has been settled by this Court that any person aggrieved by orders of revenue officials about mutation, can approach the Civil Court, even though his claim for patta is refused.

Hence, this Court is unable to find any merits in the writ petition. However, the petitioner's interest has to be protected, therefore, this Court is inclined to pass the following orders:

Writ petition is dismissed and the order of the first respondent, dated 10.03.2012 is confirmed. However, the petitioner is given liberty to approach the Civil Court to prove his title or enjoyment, in the manner known to law. In case, any civil suit is filed by the petitioner, same shall be considered, uninfluenced by the finding of the revenue officials and any of the observations made by this Court in the present writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

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Sub Assistant Registrar(CS)

gns

To

The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.B.PRASANNA VINOTH, Advocate (SR-104033[F] dated 09/12/2019)

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-104027[F] dated 09/12/2019)

+1 CC to M/s.SPL GP (SR-104191[F] dated 10/12/2019)

W.P. (MD) No.4671 of 2012
09.12.2019

KK/SAR/09.01.2020/3P-5C/