



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM

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

W.P. (MD)No.27104 of 2019

G.Murugesan

... Petitioner

vs.

1.The District Collector,
District Collectorate Office,
Thanjavur.

2.The Tahsildar,
Tahsildar Office,
Orathanaadu Taluk,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 19.11.2019 and 17.12.2019 and to issue patta in the petitioner's favour in Survey No. 636/1-A, at South Kudikaadu, Amabalaapattu Circle, Orathanaadu Taluk, Thanjavur District.

For Petitioner :Mr.G.Thalaimutharasu

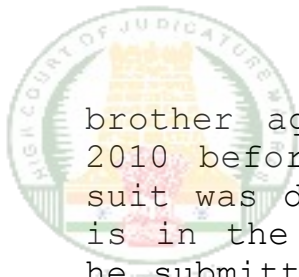
For Respondents :Mr.C.Ramar
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 19.11.2019 and 17.12.2019 and to issue patta in favour of petitioner in respect of Survey No. 636/1-A, at South Kudikaadu, Amabalaapattu Circle, Orathanaadu Taluk, Thanjavur District.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner in his affidavit filed in support of this Writ Petition, has stated that an extent of 1 Hectare and 33 Ares in S.No.636/1A at South Kudikaadu, Ambalapattu Circle, Orathanadu Taluk, Thanjavur District, was purchased by him from his uncle one A.Ramasamy for valuable consideration and that therefore, he is in possession and enjoyment of the property. It is the further case of the petitioner that a suit came to be filed by the petitioner's



brother against the petitioner's wife and son, in O.S.No.73 of 2010 before the District Munsif Court, Orathanadu and that the suit was dismissed in favour of the petitioner on 31.08.2017. It is in the said circumstances, the petitioner stated further that he submitted an online application for issuing patta in favour of him and that no action was taken by the second respondent to grant patta in favour of the petitioner.

4. In the representation of the petitioner, the petitioner states that the property was stated to have been purchased in the year 1979 and that there was an oral partition. Based on the decree in O.S.No.73 of 2010, it was further represented by the petitioner that the suit has been disposed of in his favour and that therefore, patta should be given in favour of the petitioner.

5. The petitioner has come forward with unclean hands with ill-motive. From the judgment and decree in O.S.No.73 of 2010, it is seen that the petitioner's brother and petitioner's wife have stated that the property in S.No.636/1A belonged to the petitioner's mother, by name, Mangammal. From the pleadings as extracted in the judgment would disclose that the petitioner's wife had different story about the entire property. In the suit in O.S.No.73 of 2010 filed by the petitioner's brother against the petitioner's wife and son, the case of the petitioner's brother was that the property belonged to the petitioner's mother and that the petitioner's brother is entitled to the northern half of the property by virtue of a settlement deed alleged to have been executed by the petitioner's mother. Therefore, the dispute is only in respect of the northern portion of the property in S.No.636/1A. From the defence taken by the petitioner's wife, it is seen that the petitioner's wife set up a plea that the property was purchased by her husband by an oral sale.

6. It is admitted that the entire property was registered in the name of petitioner's mother and petitioner's uncle. From the pleadings, it is seen that the petitioner's claim was never established before the Court also. Even in the suit, taking into consideration the fact that the suit was filed only for an injunction, the trial Court observed that the issue relating to the title on the basis of the document and enjoyment cannot be considered by the Civil Court. Since the petitioner's brother has not proved his exclusive possession in respect of the property, namely, northern half of S.No.636/1A, the suit was dismissed. The Civil Court did not give any finding in favour of the petitioner with regard to his enjoyment or possession, as it was contended. In such circumstances, based on the Civil Court decree, an application for grant of patta cannot be considered and therefore, this Court is of the view that the petitioner has not established



his title to the property. It is open to the petitioner to file a civil suit for getting declaration of title and for consequential injunction and to seek change of revenue records on the basis of the said Civil Court decree.

7. With the above observations, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

1. The District Collector,
District Collectorate Office,
Thanjavur.

2. The Tahsildar,
Tahsildar Office,
Orathanaadu Taluk,
Thanjavur District.

+1 cc to The Special Government Pleader Sr.No.106501

W.P.(MD)No.27104 of 2019

20.12.2019

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