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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM :

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

Writ Petition No.6667 of 2011
and
M.P.No.1 of 2011

Orders reserved on 04.03.2020	Orders pronounced on 11.03.2020
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D.Shanmuganathan

.. Petitioner

-vs-

1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai-600 005.

2.The District Revenue Officer,
Dindigul District, Dindigul.

3.The Revenue Divisional Officer,
Palani, Dindigul District.

4.The Tahsildar,
Palani, Dindigul District.

5.K.Ayyadurai

.. Respondents

Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the proceedings of the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai-600 005 made in No.F3/19953/1998, dated 24.02.2011, the first respondent herein and quash the same.

For Petitioner :

Mr.N.Damodaran

For RR1 to 4 :

Ms.A.Madhumathi,
Special Government Pleader

For Respondent-5:

No appearance



ORDER

Heard Mr.N.Dhamodharan, learned counsel for the petitioner and Ms.A.Madhumathi, learned Special Government Pleader appearing for respondents 1 to 4.

2.Though the fifth respondent has been served and his name is printed in the cause list, none appears for the fifth respondent.

3.The petitioner has impugned an order passed by the first respondent dated 24.02.2011, by which the petitioner's request for grant of transfer of the 2C patta in his favour in respect of a tamarind tree was rejected.

4.The petitioner's grandmother Tmt.Kallayee Ammal was granted 2C patta for two tamarind trees standing in Survey No.98/1, Dasaripatti Village, Palani Taluk, classified as "Natham Poramboke". One of the trees was burnt down and compounding fee of Rs.400/- was collected from the petitioner. The petitioner, being the grandson of Tmt.Kallayee Ammal, the Tahsildar, Palani, granted 2C patta in favour of the petitioner.

5.Aggrrieved by such order, the fifth respondent filed an appeal before the Revenue Divisional Officer, Palani, who rejected the appeal and confirmed the order of the Tahsildar. The fifth respondent filed further appeal to the District Revenue Officer, Dindigul, who also rejected his appeal by order dated 09.10.1995. Aggrrieved by the same, the petitioner preferred a revision before the first respondent. The first respondent, by order dated 24.03.1998, held that the transfer of patta in favour of the petitioner is not in order, and cancelled the order passed by the Tahsildar as well as by the Revenue Divisional Officer and the District Revenue Officer.

6.Aggrrieved by such order, the petitioner filed a writ petition before this Court in W.P.No.6195 of 1998. The writ petition was allowed on a technical ground that the relevant provisions were not taken into consideration and the reason assigned for rejection of the patta was not legally sustainable. The matter was remitted back to the first respondent to consider the matter afresh in accordance with the Standing Orders of the Board of Revenue. On remand, the first respondent took up the matter for consideration.

7.The petitioner contended that his grandmother was the holder of the 2C patta after which, he has been in enjoyment of



usufructs of the tamarind tree and has been paying the charges, and the reason assigned by the authorities for not transferring the patta in his name is not sustainable.

8. Further, it is contended that merely because the fifth respondent's house is situated near the tree will not confer any right on him especially when, the petitioner's grandmother has been enjoying the rights from time immemorial. The first respondent called for reports from the Zonal Deputy Tahsildar and the Village Administrative Officer, who had appeared in person during the hearing conducted by the first respondent, who had placed all the facts including the land holding of the writ petitioner.

9. The first respondent after referring to Revenue Standing Order 18-2(ii)(a), held that the Tahsildar before granting 2C patta, shall satisfy himself that it is granted to eligible persons and they will have free and easy access to reach the government trees without any hindrance to the adjacent patta land holders. Further, the first respondent held that the Tahsildar has not considered this provision of the Revenue Standing Orders while transferring the 2C patta in favour of the petitioner during 1992, but passed orders based on succession, which is incorrect.

10. Further, the first respondent noted that both the petitioner and the fifth respondent are wealthy pattadars. Therefore, the tamarind tree was directed to be left at the disposal of the Panchayat for raising Revenue by sale of usufructs annually. This order has been put to challenge in this writ petition.

11. The first and foremost aspect that has to be taken note of is that the tamarind tree stands in a government poramboke land. The tree belongs to the government. Therefore, it is at the discretion of the Government, 2C patta can be granted to a private individual to enjoy the usufructs from the tree for a period specified upon payment of charges. Therefore, no private individual can, as a matter of right, insist that 2C patta should be granted in favour of him. Bearing in mind this basic principle, if the facts of the present case are examined, the only conclusion that can be arrived at is to hold that the petitioner had no vested right to claim 2C patta in respect of the said tamarind tree merely on the basis that his grandmother was granted patta and after her life time, the petitioner has been enjoying the usufructs.

12. One other important fact, which has been noted by the first respondent is that the petitioner is a wealthy pattadar, which will also preclude him from insisting that the respondent



should grant him the 2C patta. Likewise, the fifth respondent is also a wealthy pattadar. Surprisingly, the petitioner and the fifth respondent took the matter to the Civil Court by filing a suit in O.S.No.519 of 1996 in which, the fifth respondent was the plaintiff. Though the suit was for a larger relief of a decree of injunction, the crux of the matter was with regard to the enjoyment of the usufructs from the tamarind tree. The suit was dismissed by judgment and decree dated 27.04.2006. In the said suit, the officials of the Revenue Department were not parties. Therefore, merely because the suit filed by the fifth respondent was dismissed, the petitioner's case can in no manner improve. The decision arrived at by the first respondent is a very balanced decision by directing the tree to be left at the disposal of the village Panchayat for raising Revenue by sale of usufructs annually.

13.This Court finds there is absolutely no error in the decision making process or in the ultimate decision warranting interference. For the above reasons, this Court is of the view that the petitioner has not made out any ground to interfere with the impugned order dated 24.02.2011.

14.Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai-600 005.
- 2.The District Revenue Officer,
Dindigul District, Dindigul.
- 3.The Revenue Divisional Officer,
Palani, Dindigul District.



4.The Tahsildar, Palani,
Dindigul District.

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+1cc to Mr.N.Damodaran, Advocate Sr.22002
+1cc to the Government pleader Sr.22155

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srg 09/07/2020