

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9534 of 2020

1.Santha,
W/o.Late Shanmuga Reddiar.

2.S.Gajaraj,
S/o.Late Shanmuga Reddiar. Petitioners
Vs.

1.The District Collector,
Ranipet,
Ranipet District.

2.The Revenue Divisional Officer,
O/o.The Revenue Division Office,
Ranipet,
Ranipet District.

3.The Thasildar,
Arcot Taluk,
Ranipet District.

... Respondents.

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, to direct the Respondents to consider and pass an order on the petitioners representation 26.02.2020 for the grant of patta in respect of Gramma Natham land comprised in Survey No.221/A now 221/A4 situated at Tamaraipakkam Village, Arcot Taluk, Ranipet District.

For Petitioner : Mr.J.Shanmuga Sundara Babu.

For Respondents : Mr.A.Aruldoss
Government Advocate.

O R D E R

By consent given by both sides, this writ petition is taken up for final hearing at the admission stage itself.

2.This writ petition has been filed for issuance of writ of mandamus directing the respondents to consider the representation made by the petitioners on 26.02.2020, wherein the petitioners had sought for grant of patta.

3.It is seen from the records that one Shanmuga Reddiar, had originally purchased the property by way of registered sale deed dated 17.10.1980. After the death of the said Shanmuga Reddiar, the petitioners are claiming ownership of the property in their capacity as legal heirs of the deceased. It is further seen from records that earlier there was a dispute between the petitioners and two others with regard to right over the property, which resulted in the petitioners filing a suit in O.S.No.127 of 2009.

4.The above said suit was finally decided and it will be relevant to extract the portion of the judgment that was passed in the suit on 06.11.2015.

"The plaintiffs taken two inconsistent stands. In the pleadings and their side evidence they rely upon the Sale Deeds. But suddenly diverted and concentrated on the view that the Survey Number 221/A, is Promboke Land. If it is so, no document is produced to show their possession of Government land. When the title of the vendors are not established, the court takes presumption that the Government Poromboke land is sold to the Shanmuga Reddiar. No person can transfer a better title, for which he hold no title. The title of the plaintiff is not property established. The Plaintiff himself has marked the Ex.A4 in which, the Survey Number 21/A is mentioned as Poromboke. At least the Plaintiffs would have taken efforts to make the application and Proceedings made before the Tahsildar.

Further, the court also finds that, the Defendants, have no individual right over the suit property. They claim it to be the property belonging to the Panchayat. But no document is produced before the Court to show that Grama Natham has been given to the Panchayat. No Assignment or transfer order is produced. So the Panchayat too have no right over the suit properties.

The Defendants as individuals have no claim. The Proceedings of the Panchayat are marked. But, when Panchayat Union is not a party and the Panchayat has no title, it cannot be decided now.

In the absence of derivative title, the Plaintiff ought to have filed this suit against the State. Only the State is the true owner. In such circumstances, the Court finds no declaratory title to be declared against the State in a separate suit.

With the above discussions, the Court finds that the Plaintiffs have not established valid title. "

5.The plaintiffs thereafter have made representation to the respondents seeking for issuance of patta. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

6.Heard Mr.J.Shanmuga Sundara Babu, the learned counsel appearing on behalf of the petitioners and Mr.A.Aruldoss, learned Government Advocate, appearing on behalf of the respondents.

7.In the considered view of this Court, the respondents cannot completely disregard the judgment passed by the competent civil court and proceed to consider the representation made by the petitioners, who are seeking for a patta. The relevant portion of the judgment extracted supra shows that the property has been identified in the revenue records as Poromboke. That is the reason why the civil court had directed the petitioners to work out their remedy by filling an appropriate suit for declaration of title against the State. Without filing any suit, the petitioners have choose to make representation seeking for patta.

8.The petitioners ought to have worked out their remedy only before the civil court and the question of granting patta in favour of the petitioners will arise only if they establish their title over the property. Therefore, no useful purpose will be served by giving a direction to the respondent to consider the representation made by the petitioners.

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9.In the light of the above discussion, this Court does not find any merits in the present writ petition and accordingly the same is dismissed. It is left open to the petitioners to work out their remedy before the competent civil court, if so advised. No costs.

Sd/-
Assistant Registrar

/true copy/
Sub Asst. Registrar

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To

- 1.The District Collector,
Ranipet,
Ranipet District.
- 2.The Revenue Divisional Officer,
O/o.The Revenue Division Office,
Ranipet, Ranipet District.
- 3.The Thasildar,
Arcot Taluk,
Ranipet District.
- 4.The Government Pleader,
High Court, Madras.

+1 cc to Mr.J.Shanmuga Sundara Babu Advocate sr25006
+1 cc to the Government Pleader sr25287

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