

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.38049 of 2015
and
M.P.Nos.1 & 2 of 2015

Vasudeva Reddy

... Petitioner

Vs.

1. The District Revenue Officer,
Krishnagiri.
2. Sub-Collector/Revenue Divisional Officer,
Hosur,
Krishnagiri District.
3. Tahsildar,
Hosur Taluk Office,
Hosur.
4. Thiyagaraja Reddy (deceased)
5. Paravathamma
6. T.Ramachandra Reddy
7. T.Parthasarathi
8. T.Sathyananda @ Babu सत्यमेव जयते
9. Rajitha

... Respondents

[R5 to R9, legal representatives of the deceased R4,
are substituted vide order of this Court dated
13.03.2020 made in WMP.No.10388 of 2019
in W.P.No.38049 of 2015]

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to Pa.Mu.No.5441/2012/J2 dated 13.2.2015 to quash the same and consequently direct the 3rd respondent to issue patta in favour

of petitioner to an extent of 0.63 ½ acres comprised in Survey No.209/4 of Chennathur Village, Hosur Taluk, Krishnagiri District based on the recommendations of 2nd respondent issued in Na.Ka.3137/ 2014/B4 dated 26.8.2014 within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar
Assisted by Mr.S.A.Sayed Shuhaibb
For R1 to R3 : Mr.K.S.Suresh
Government Advocate
For R4 to R9 : No appearance

O R D E R

Heard Mr.R.Bharath Kumar, learned counsel for the petitioner, assisted by Mr.S.A.Sayed Shuhaibb, and Mr.K.S.Suresh, learned Government Advocate, appearing for the respondents 1 to 3.

2.The 4th respondent is no more and his legal heirs have been substituted. Notices were sent and their names are printed in the cause list. However, none appears for the legal heirs of the 4th respondent.

3.Order impugned in this writ petition has been passed by the 1st respondent on an appeal/revision petition filed by the petitioner on 14.06.2010, objecting to the inclusion of the name of the 4th respondent in the patta. The petitioner's case is that the land in question originally belonged to his grandfather, who purchased the same by two sale deeds dated 29.04.1930 and 28.01.1933. The petitioner's father and his brothers succeeded to the property after the demise of the petitioner's grandfather and they entered into an oral partition, which included several properties including the property which is the subject matter of this writ petition. It is stated that, in the oral partition, the land to an extent of 1.45 acres was allotted to the petitioner's grandfather's brother Peddalakshmana Reddy, 2.50 acres to Chinnalakshmana Reddy and the remaining extent of 1.98 acres was allotted to the share of the petitioner's father Lakshminarayana Reddy. The petitioner's father is said to have donated 5.93 ½ acres to Catholic Church in the year 1960, and 8 cents of land was donated to the Panchayat Union Middle School in the year 1960. Thereafter, the petitioner's father is stated to have purchased certain lands and conveyed certain extent of land to one Akkai Ammal and ultimately, he became the absolute owner of 5.68 ½ acres of land, out of the total extent of 5.93 ½ acres. The petitioner's father died leaving behind the petitioner's mother and six sons and two daughters as his legal heirs.

4.The petitioner's case is that, under the Computerisation of Revenue Records Scheme, which was undertaken by the authorities, the property in S.No.209 was subdivided as S.Nos.209/1, 209/2, 209/3, 209/4 and 209/5 and Patta No.317 was wrongly issued in favour of the 4th respondent, by including an extent of 0.63 ½ acres of land in S.No.209/4. The petitioner would state that, actually the said extent of 0.63 ½ acres form a part of S.No.209/5 belonging to his father Lakshminarayana Reddy. The petitioner states that the 4th respondent has no right over the said property and in this regard, the petitioner's father filed a suit in O.S.No.202 of 1993 on the file of the District Munsif Court, Hosur, against the 4th respondent for declaration of title and for permanent injunction and the suit was decreed on 06.11.1996. Therefore, the petitioner had approached the 3rd respondent to rectify the error and submitted an application for transfer of patta on 21.06.2010. This application was forwarded to the 1st respondent, who in turn, directed the 2nd respondent to enquire into the matter and submit a report. The 2nd respondent conducted enquiry and submitted a report pointing out a mistake which had occurred during the implementation of the UDR Scheme and recommended for issue of patta in favour of the petitioner. However, the 1st respondent, ignoring the recommendations of the 2nd respondent, has rejected the petitioner's appeal/revision petition, by passing the impugned order.

5.At the first blush, it appears that the impugned order is an elaborate and speaking order. However, it is seen that, more than four pages of the order have been devoted to the claim made by the petitioner, the response of the 4th respondent, and the report of the 2nd respondent. The only reason given by the 1st respondent to call upon the petitioner to approach the Civil Court is by referring to an Encumbrance Certificate for the period from 01.01.1960 to 31.12.1986 and it is stated that the Encumbrance Certificate shows that there is a partition between the 4th respondent and his brother Thirumala Reddy and as per the partition deed, an extent of two acres fell to the share of the 4th respondent and this partition deed has not been challenged before any Court and therefore, the 1st respondent directed the petitioner to approach the Civil Court. There is no finding rendered by the 1st respondent on the effect of the decree in O.S.No.202 of 1993, filed by the petitioner's father against the 4th respondent.

6.Thus, it is clear that the 1st respondent misdirected himself in the manner in which he conducted the enquiry. The impugned order is devoid of reasons. Despite the fact that the 4th respondent did not produce any document, the 1st respondent

has rendered a finding and directed the petitioner to approach the Civil Court. In fact, the order should have been otherwise, directing the 4th respondent to approach the Civil Court. Thus, the impugned order is thoroughly flawed.

7. For the above reasons, this writ petition is allowed and the impugned order is quashed and the matter is remanded to the 1st respondent for fresh enquiry.

8. The 1st respondent is directed to issue notice to the petitioner and the legal heirs of the 4th respondent, who have been substituted as respondents 5 to 9, provide an opportunity of personal hearing to all the parties, peruse the documents that may be produced, and pass a speaking order on merits and in accordance with law. Till orders are passed, the revenue entries which are prevailing as on today, i.e. on 13.03.2020, shall be maintained. The above direction shall be complied with by the 1st respondent within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Krishnagiri.
2. The Sub-Collector/Revenue Divisional Officer,
Hosur, Krishnagiri District.
3. The Tahsildar,
Hosur Taluk Office,
Hosur.

W.P.No.38049 of 2015

NMI (CO)
RPP (22/05/2020)