

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.10971 of 2020 &
W.M.P.Nos.13336 & 13338 of 2020

Boopathysamynathan

.. Petitioner

-Vs-

1. The District Revenue Officer,
Tiruppur District.

2. Kalaiselvi

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to Reference No.13090/2019/J1, dated 18.05.2020 passed by the first respondent.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.K.Parameshwaran
Government Advocate

ORDER

(The case has been heard through video conference)

This Writ Petition has been filed challenging the order passed by the first respondent by proceedings dated 18.05.2020.

2. The case of the petitioner is that subject property originally belonged to his father and he was also issued with a patta in the year 1985. The further case of the petitioner is that the property was also sold in favour of one Ramanathan by a registered sale deed, dated 22.11.2007.

3. There was an enquiry conducted by the Tahsildar, Pallavaram subsequent to the direction issued by the first respondent and a report was also submitted before the first respondent. The first respondent was informed that the subject

property has been recorded in the revenue record as "Government poramboke".

4. The first respondent, thereafter, issued notice to the petitioner and the subsequent purchaser. An enquiry was conducted and all the documents were verified. The first respondent by the impugned proceedings, dated 18.05.2020 has come to the conclusion that the subject property is a Government poramboke and therefore, the patta that was initially granted in favour of the father of the petitioner itself is invalid. Therefore, the first respondent had directed the Tahsildar to make necessary changes in the revenue records and also to conduct the survey and give a report. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Mr.D.R.Arun Kumar, learned counsel appearing for the petitioner submitted that the first respondent ought not to have cancelled the patta merely based on the report of the Tahsildar, Pallavaram. The learned counsel further submitted that the father of the petitioner and thereafter, the subsequent purchaser has been in possession and enjoyment of the property for more than 3 decades and therefore, the first respondent ought to have taken the possession into consideration before passing any orders against the petitioner. The learned counsel further submitted that the property has already been sold to one Mr.Ramanathan in the year 2007 itself and the first respondent has cancelled the patta at this point of time and therefore, the petitioner becomes answerable to the subsequent purchaser of the property.

6. Heard Mr.D.R.Arun Kumar, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate for the respondents.

7. The issue that has been projected before this Court involves title over the property. The petitioner claims that the property belongs to his father. The respondents claim that the property is a Government poramboke land. In order to come to such a conclusion, the first respondent has relied upon the revenue records. This Court exercising its jurisdiction under Article 226 of the Constitution of India cannot decide the title over the property, since it involves appreciation of facts. It is only a competent civil Court which can decide the title over the property after recording evidence. Therefore, if the petitioner and the subsequent purchaser are aggrieved by the order passed by the first respondent, the proper remedy would be to file a suit for declaration of title and seek for other consequential reliefs before the civil Court and they can always establish the title before the said Court.

8. In view of the above discussion, this Court is not inclined to entertain this Writ Petition against the impugned order passed by the first respondent. Liberty is granted to the petitioner and the subsequent purchaser to independently work out their remedy before the competent Civil Court and seek for appropriate relief. Except giving this liberty, no further orders can be passed by this Court.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Revenue Officer,
Tiruppur District.

+1cc to Mr.D.R.Arun Kumar, Advocate, Sr.No.27446

W.P.No.10971 of 2020 &
W.M.P.Nos.13336 & 13338 of 2020

pa (co)
rr ii (15/09/2020)

सत्यमेव जयते

WEB COPY