



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.10.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27529 of 2013

and

M.P.No.1 of 2013

N.Subramaniam

.... Petitioner

Vs

1.The Revenue Divisional Officer,
Tirupur - 641 601.

2.The Tahsildar,
Avinashi, Tirupur District.

3.S.N.Sudamani

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records on the file of the first respondent in Na.Ka.1648/2011/A5 dated 02.09.2013 and quash the same.

For Petitioner : Mr.R.Senniappan

For R1 & R2 : Mr. M.R.Gokul Krishnan
Government Advocate

For R3 : Mr.Kaushik N. Sharma

ORDER

This Writ Petition has been filed for issuance of writ of certiorari calling for the records on the file of the first respondent in Na.Ka.1648/2011/A5, dated 02.09.2013 and quash the same.

2. Mr.R.Senniappan, the learned counsel appearing for the petitioner, Mr. M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 & 2 and Mr.Kaushik N. Sharma, the learned counsel appearing for the third respondent.

3. The case of the petitioner is that the land ad-measuring to an extent of 7.20 $\frac{3}{4}$ acres belonged to the petitioner's father by way of a partition deed dated 18.07.1955. He died leaving behind the petitioner's father as his legal heir. His father digged the well and obtained



electricity service connection and cultivated the subject land. His father and all of the family members executed a release deed in favour of the petitioner dated 27.03.1980 in respect of the subject property comprised in Survey Nos.465/1 and 465/2 ad-measuring an extent of 6.99 acres and 0.21 $\frac{3}{4}$ acres respectively.

4. However, the third respondent claimed title over the property to an extent of 0.21 $\frac{3}{4}$ acres and filed a suit and obtained interim injunction. In the said suit, the petitioner also filed counter claim for declaration of title in his favour and also recovery of possession in respect of the said property. The third respondent also filed an application before the first respondent to cancel the patta issued in favour of the petitioner on the strength of the false complaint lodged before the Land Grabbing, Special Cell, Tiruppur. On receipt of the notice, the first respondent submitted his reply through his counsel dated 20.03.2013 stating that there was a dispute in respect of the disputed land before the Sub Court, Tiruppur in O.S.No.342 of 2010 and requested the first respondent to await the order from the Civil Court. However, without considering the same, the first respondent passed an order and thereby cancelled the patta issued in favour of the petitioner.

5. It is seen that the suit filed by the third respondent also came to be dismissed and aggrieved by the same, the third respondent preferred an appeal in A.S.No.2 of 2017 on the file of the Principal District Court, Tiruppur and it is pending. When the case is pending before the Civil Court, to decide the title in respect of the subject property, the first respondent ought not to have passed the impugned order, since, the first respondent has no jurisdiction to decide the title over the property.

6. In view of the above, the impugned order in Na.Ka.1648/2011/A5 dated 02.09.2013 passed by the first respondent is hereby set aside. If the third respondent succeeds in the suit, he can very well approach the first respondent to issue patta in his favour.

7. In the result, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar



To

1.The Revenue Divisional Officer,
Tirupur - 641 601.

2.The Tahsildar,
Avinashi, Tirupur District.

+1cc to Mr.R.Senniappan, Advocate SR.No.55673

+2cc to Mr.Kaushik N.Sharma, Advocate SR.No.55476

+1cc to Government Pleader SR.No.55401

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GPL (CO)
SB(12/11/2021)