



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

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THE HON'BLE Mr.JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.9620 of 2011 & 25 of 2014 and
MP.Nos.1 of 2011, 1 & 2 of 2014

WP.No.9620 of 2011

V.Thirupathisamy

... Petitioner

Vs

- 1.The Principal Secretary and
Commissioner of Land Administration,
Chepauk, Chennai-5
- 2.The District Revenue Officer,
Virudhunagar
- 3.The Revenue Divisional Officer,
Sivakasi
- 4.R.Sumathi

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the order dated 20.09.2010 in proceedings D.Dis.K4/RP34/ 06 (12126/06) of the first respondent and direct the respondents to issue patta to an extent of 7 $\frac{3}{4}$ cents in survey No.1175/40 in Aalangulam Village in Sivakasi Taluk, Virudhunagar District to the petitioner herein.

For Petitioner : Mr.P.Selvaraj

For Respondents
For R1 to 3 : Mr.Richardson Wilson,
Government Advocate

For R4 : Mr.A.Jeenasenan

WP.No.25 of 2014

R.Sumathi

... Petitioner

Vs



- 1.The Principal Secretary and
Commissioner of Land Administration,
Chepauk, Chennai-5
- 2.The District Revenue Officer,
Virudhunagar
- 3.V.Thirupathisamy

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records of the second respondent in Na.Ka.B2/10821/04 dated 24.02.2006 and the operation of the proceedings of the first respondent in D.Dis.K4/RP34/ 06 (12126/06) dated 20.09.2010 and quash the said proceedings dated 24.02.2006 and 20.09.2010.

For Petitioner	:	Mr.A.Jenasenan
For R1 to 2	:	Mr.Richardson Wilson, Government Advocate
For R3	:	Mr.P.Selvaraj

COMMON ORDER

The Writ Petition in WP.No.9620 of 2011 is filed challenging the order passed by the first respondent dated 20.09.2010, thereby set aside the order passed by the second respondent. The Writ Petition in WP.No.25 of 2014 is filed challenging the order passed by the second respondent therein dated 24.02.2006.

2. In respect of WP.No.9620 of 2011, the suit property is a land admeasuring 7 $\frac{3}{4}$ cents classified as Government pooramboke natham. The petitioner filed petition before the third respondent for grant of patta for the said land comprised in survey No.1175/40 based on the sale deed dated 26.05.1928 from one, M.Magamma. Over the said request, it was rejected for the reason that the suit property is being used as playground by the A.T.R.Primary School, i.e. the fourth respondent herein. Aggrieved by the said order, the petitioner filed appeal before the second respondent. While pending the appeal, the name of one, Seethalakshmi Ammal has been included under Patta No.263 for the said property. Therefore, the petitioner impleaded the legal heirs of the said Seethalakshmi as party to the appeal and prayed to cancel the patta issued in favour of the said Seethalakshmi Ammal. The second respondent issued notice to the parties concerned and conducted detailed enquiry. On the said enquiry, by order dated 24.02.2006, cancelled patta registered in the name of the said Seethalakshmi for the reason that the fourth respondent herein, i.e. A.T.R.Primary School has failed to produce reliable documents through which her mother in law,



i.e. the said Seethalakshmi has derived title over the suit property. Therefore, the appeal was allowed and the second respondent directed the authorities concerned to issue patta in favour of the petitioner herein. Aggrieved by the same, the fourth respondent herein filed revision before the first respondent.

3. The first respondent by an order dated 20.09.2010 observed that both the persons, i.e. the petitioner and the fourth respondent claimed the subject property based on the documents pertain to the year 1928 to 1962, which were not specifically corroborated with the subject property. Therefore, both the parties failed to produce documents to show their continuous possession and enjoyment of the said property. It is also noted that the natham pattas may be issued to the individuals if their possession, enjoyment and title over the land had been well established and vacant sites are to be recorded as it is for the future purposes of the Government. Therefore, the first respondent rightly set aside the order passed by the second respondent. Aggrieved over the same, the petitioner as well as the fourth respondent filed separate writ petitions.

4. Admittedly, the petitioner in both the writ petitions failed to produce recent documents to prove their possession and enjoyment and title over the said property. Admittedly, the dispute between the petitioners in both the writ petitions is in respect of title over the property. Therefore, it cannot be decided in the writ petitions, that too under Article 226 of the Constitution of India, since it is coupled with question of facts and it has to be decided by the civil court. That apart, the dispute of title cannot be decided by the writ court. Therefore, both the writ petitions failed and are liable to be dismissed.

5. Accordingly, both the writ petitions are dismissed. However, the petitioner in both the writ petitions are at liberty to prove their title in respect of the suit property before the civil court. It is also made clear that the period of pendency of the writ petitions may exclude while calculating the period of limitation to file suit. Section 14 of the Limitation Act applies and save the limitation for the petitioners to approach the civil court. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



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To

1.The Principal Secretary and
Commissioner of Land Administration,
Chepauk, Chennai-5.

2.The District Revenue Officer,
Virudhunagar.

3.The Revenue Divisional Officer,
Sivakasi.

+1cc to the Government Pleader Sr No.37714 & 37731

+2ccs to Mr.P.Selvaraj, Advocate Sr No.37864 & 37865

+2ccs to Mr.A.Jenasenan, Advocate Sr No.37504

WP.Nos.9620 of 2011 & 25 of 2014

PA (CO)

PR (26/08/2021)