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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5799 of 2018

N.Sathish

.... Petitioner

Vs

1. The District Collector,
Krishnagiri,
Krishnagiri District.
2. The District Revenue Officer,
Krishnagiri,
Krishnagiri District.
3. The Sub Collector,
Hosur,
Krishnagiri District.
4. The Tahsildar,
Hosur,
Krishnagiri District.
5. B.Venkatesappa

(R5 impleaded vide Order dated
26.03.2019 made in WMP No.
36264 of 2018 in W.P.No.5799
of 2018)

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the second respondent issued in Pa.Mu.25517/2017/J-2 dated 16.02.2018, quash the same and consequently direct the respondents to rectify the errors crept in the revenue records relating to the lands measuring to an extent of 31 cents comprised in survey No.1280/A1 and 1 cent in survey No.1280/B totaling 32 cents situated at Achettipalli Village, Hosur Taluk, Krishnagiri District and issue patta to the petitioner within the time to be stipulated.

For Petitioner : Mr.V.Ayyapparaja
for Mr.R.Bharath Kumar



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For R1 to R4 : Mr. Richardson Wilson,
Government Advocate

For R5 : Notice

ORDER

This Writ Petition has been filed for issuance of writ of certiorarified mandamus, calling for the records of the second respondent issued in Pa.Mu.25517/2017/J-2 dated 16.02.2018, quash the same and consequently direct the respondents to rectify the errors crept in the revenue records relating to the lands measuring to an extent of 31 cents comprised in survey No.1280/A1 and 1 cent in survey No.1280/B totaling 32 cents situated at Achettipalli Village, Hosur Taluk, Krishnagiri District and issue patta to the petitioner within the time to be stipulated.

2. Heard, Mr.V.Ayyapparaja, the learned counsel appearing for the petitioner and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 to 4.

3. The case of the petitioner is that the land admeasuring to an extent of 31 cents comprised in survey No.1280/A1 and 1 cent in survey No.1280/B totaling 32 cents and other larger extent of lands situated at Achettipalli Village, Hosur Taluk, Krishnagiri District were originally acquired for formation of Railway line by the Government of Tamil Nadu. Subsequently, the said proposal of formation of Railway line was abandoned and the lands acquired for Railway were auctioned by the Special Tahsildar, Krishnagiri. Accordingly, the petitioner's father participated in the auction sale for purchase of the said lands and the offer of Rs.1,300/- was accepted and he was declared as successful bidder. His purchase was confirmed by the proceedings in RC 27322/73 by the District Collector and the entire sale consideration was duly received by the revenue officials. Thereafter, his father died intestate on 29.03.2002 and after his demise, the petitioner and his brother are in possession and enjoyment of the subject land to an extent of 32 cents and cultivating the same.

3. The petitioner intended to develop the said property and to avail loan, applied for patta. Thereafter, the petitioner came to know that the said land has been wrongly classified as "Battai" instead of Private patta land. In fact, the revenue authorities did not issue any notice to the



petitioner or his father, while making such erroneous classification of the land which is in petitioner's possession and enjoyment. Therefore, the petitioner submitted a detailed representation on 06.03.2017 to the respondents to issue patta. Since no action was taken, the petitioner approached this Court in W.P.No.17718 of 2017 and this Court directed the second respondent to consider the representation and pass orders within the stipulated time. Thereafter, the fourth respondent conducted a field inspection and submitted a report to the second respondent stating that the petitioner's father purchased the land in an auction sale and recommended for issuance of patta in favour of the petitioner.

4. However, the second respondent rejected the claim of the petitioner for the reason that the subject lands were found as survey No.1280 in the Pre-Updating Registry Scheme records such as Re-survey and Re-settlement 'A' register in the year 1907 with the classification of Government Dry Poramboke land. Subsequently, it has been sub-divided as 1280/B of an extent of 0.00.5 hectares and survey No.1280/A1 of an extent of 0.12.5 hectares. With no authenticated proceedings, the said land was transferred to the Railway Authority. It is further stated that the land was under the custody of Railway Authority, on what basis the said land has been transferred and on what grounds the same has been sold to the petitioner's father.

5. The second respondent filed a counter stating that the subject land is classified as "Battai" in the Re-survey and Re-settlement in the year 1907 and the same was sustained in the Updating Registry Scheme records as an objectionable waste land. If any land has been transferred to the Railway Authority, it should be utilised by the concerned department. If not the same should be returned to the State Government which compulsorily should be registered in the revenue records. But no records were found with such entries. Additionally the classification was carried out in the year 1907 itself but not in the time of Updating Registry Scheme. The revenue authorities need not issue any notice to any private individual in the case of entering the classification.

6. According to the second respondent, the Pre-updating Registry Scheme records and even the Updating Registry Scheme records made a move to the winding up session that the subject land has been registered as "Battai" in the Pre-updating Registry Scheme records such as Re-survey and Re-settlement records in the year 1907 itself as Government Dry Land and the same has been sub-divided as survey No.1280/A1 of an extent of 0.12.5 hectares and land in survey No.1280/B of an extent of 0.00.5 hectares with no concerned authorities signature. Therefore, the second respondent rightly passed the order.



7. Admittedly, the subject land, along with the other land, was originally acquired for formation of Railway line by the Government of Tamil Nadu. Since the proposal was abandoned, the entire acquired lands were auctioned by the Special Tahsildar, Krishnagiri and on payment of charges. Accordingly, the petitioner's father participated in the auction and purchased the subject land for the total sale consideration of Rs.1,300/- and he paid a sum of Rs.400/- on 11.03.1970 towards part of sale consideration and the auction sale was confirmed in the proceedings in RC 27322/73. The petitioner's father paid the balance sale consideration of Rs.900/- to the Special Tahsildar by depositing into the Treasury on 23.10.1973. Thereafter, the petitioner's father was issued with the sale certificate confirming the auction sale. The said sale certificate is in the name of the petitioner's father in respect of the subject land i.e., the land comprised in survey No.1280A1 to an extent of 31 cents. However, in the 'A' Register, it was shown as "Battai Poramboke" and "Podukaal Anathenam". As directed by this Court, the fourth respondent conducted a detailed enquiry and submitted his report.

8. A perusal of the said report reveals that the auction sale and sale certificate were issued in favour of the petitioner's father. After demise of the petitioner's father, the petitioner is in possession and enjoyment of the same and after purchase of the subject land, in 'A' Register, Chitta, Adangal and other revenue records are not mutated in the name of the petitioner. In fact the Updating Registry Scheme records also stood as "Battai Poramboke". Therefore, he recommended for re-classified the land into patta land in favour of the petitioner. Though the petitioner produced all the documents before the Tahsildar, the Tahsildar conducted a detailed enquiry and sent a detailed report to the second respondent. Even then, the second respondent stated that no document was submitted to that extent by the petitioner. Therefore, the petitioner being the legal heir of the deceased Narayanappa is entitled for patta on the strength of the sale certificate issued in favour of his father.

9. In view of the above, the impugned proceedings in Pa.Mu.25517/2017/J-2, dated 16.02.2018 passed by the second respondent is hereby set aside. The second respondent is directed to re-classify the subject land into the patta land and order to issue patta in favour of the petitioner, within a period of six weeks from the date of receipt of a copy of this order.



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10.
No costs.

In the result, the Writ Petition stands allowed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Krishnagiri,
Krishnagiri District.
2. The District Revenue Officer,
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Krishnagiri District.
3. The Sub Collector,
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4. The Tahsildar,
Hosur,
Krishnagiri District.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.54874

W.P.No.5799 of 2018

GPL (CO)
SU (15/11/2021)