



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.5728 of 2015

and

M.P.No. 1 of 2015

M/s.Simpson & Company Limited,
No.861/862, Anna Salai,
Chennai - 600 002.

....Petitioner

Vs

1. The District Revenue Officer,
Krishnagiri District,
Collectorate, Hosur Salai,
Krishnagiri.
2. N. Balaraju
3. The Sub -Collector,
Hosur, Krishnagiri District.
4. The Tahsildar,
Hosur, Krishnagiri District.

....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 first respondent's order dated 10.02.2015 bearing reference Pa.Mu.No.20491/2014/J-2 and all proceedings arising thereof; quash the same and direct the first respondent to consider the matter afresh after granting an opportunity of personal hearing and also an opportunity to submit evidence, both oral and documentary, in support of the petitioner's contentions.

For Petitioner : Mr.Krishnasrinivasan
for M/s.S.Ramasubramaniam & Asso.,

For R1, R3 & R4: Mr.Richardson Wilson,
Government Advocate

For R2 : Mr.K.Goviganesan



ORDER

This Writ Petition has been filed for issuance of writ of certiorarified mandamus, calling for the records of the first respondent's order dated 10.02.2015 in Pa.Mu.No.20491/2014/J-2 ; quash the same and direct the first respondent to consider the matter afresh after granting an opportunity of personal hearing and also an opportunity to submit evidence, both oral and documentary, in support of the petitioner's contentions.

2.Heard, Mr.Krishnasrinivasan, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1, 3 & 4 and Mr.K.Goviganesan, learned counsel appearing for the second respondent.

3.The case of the petitioner is that the property comprised in survey No.691/1A to an extent of 0.08.0 Hectares was purchased by the petitioner by a registered sale deed dated 07.12.2006 from one Chikkaiah, his son Chiokkadhoddiah and who has the legalheirs of one Kevalappa, situated at Mornapalli Village, Hosur Taluk. The said property originally owned by one Munilakshmikka, who sold the said property in favour of one Kevalappa by a registered sale dated 22.05.1923 vide document No. 834 of 1923. After demise of the said Kevalappa, his legalheir i.e., the petitioner's vendor, absolute owner of the subject property.

4.Whereas, the case of the second respondent, the subject property was originally an ancestral property of one Bedappa @ Kevalappa, who settled in favour of his son one Dhoddaiah by a settlement deed dated 19.02.2003 vide document No. 722 of 2003 on the file of the Office of the Joint Sub Registrar, Hosur. In turn, the said Dhoddaiah sold out the portion of 5145 sq.ft. out of 0.08.0 hectares in his favour by a registered sale deed dated 25.04.2008 vide document No.5799 of 2008. Thereafter, the second respondent applied for patta on the strength of the sale deed and the joint patta was issued in his favour in Patta No. 1164, dated 12.10.2011. At the same time, by virtue of the sale deed dated 07.12.2006, the petitioner applied for transfer of patta in his favour and accordingly the patta was issued in favour of the petitioner in patta No. 3012, dated 04.05.2012. It was granted in favour of the petitioner and also cancelled the joint patta issued in favour of the second respondent and others.

5.Therefore, the second respondent filed a petition before the third respondent to cancel the patta issued in favour of the petitioner and the same was dismissed by an order dated 19.08.2014. Aggrieved by the same, the second respondent



preferred an appeal before the first respondent and the same was allowed, without considering the facts. The first respondent, while cancelling the patta issued in favour of the petitioner, restored the patta in the name of the deceased Kevalappa and directed the parties to file a suit for ascertaining the title over the subject property and applied for patta. Originally, the patta issued in favour of the petitioner and as such it cannot be restored in favour of the deceased Kevalappa in the name of the deceased Kevalappa who was the original owner of the subject property. In fact, after his demise, the legal heirs sold out the property in favour of the petitioner. The first respondent rightly directed the parties to approach the Civil Court to ascertain the title over the subject property. The first respondent ought not to have restored the patta in favour of the deceased Kevalappa. That apart, the petitioner also filed a suit for declaration and injunction in respect of the very same property in O.S.No. 141 of 2017 on the file of the Additional District Court, Hosur, Krishnagiri District and it is pending for adjudication. Though it was dismissed for default on 27.01.2021, the petitioner also filed an application to restore the suit in I.A.No.2 of 2021 on the file of the Additional District Court, Hosur.

6. In view of the above, the impugned order dated 10.02.2015 in Pa.Mu.No.20491/2014/J-2 is hereby set aside. If the second respondent succeed in the suit, he can very well to apply for issuance of patta before the fourth respondent for the subject property.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The District Revenue Officer,
Krishnagiri District,
Collectorate, Hosur Salai,
Krishnagiri.
2. The Sub -Collector,
Hosur,



Krishnagiri District.

3. The Tahsildar,
Hosur,
Krishnagiri District.

4. The Additional District Judge,
Hosur, Krishnagiri District.

+lcc to Mr.S.Ramasubramnian Associates, Advocate, S.R.No.55177
+lcc to Mr.K.Govi Ganesan, Advocate, S.R.No.55175

W.P.No.5728 of 2015
and
M.P.No. 1 of 2015

CH (CO)
RGA (29/11/2021)