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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.15864 OF 2018

AND

W.M.P.NO.18865 OF 2018

N.Karuppusamy

... Petitioner

.Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Coimbatore.

3. The Tahsildar,
Sulur Taluk, Sulur.

4. A.Thangaraj ... Respondents
(R4 is impleaded as per order dated 06.07.2021
in W.M.P.No.37064 of 2018)

PRAYER:-

Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to issue patta in the name of the Temple Sri Dharmakottai Arulmigu Sri Santhana Karupparayan Thirukkoil, Sengathurai for the 2.00 acres Punja land situated in S.No.81, as per the recommendation of the 3rd respondent dated 27.10.2016 and to protect the usage of Rasipalayam - Senthurai metal road for public.

For Petitioner : No appearance

For Respondents 1 to 3 : Mr.Richardson Wilson
Counsel for Government

For 4th Respondent : Mr.J.Antony Jesus



ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to issue patta in the name of the Temple Sri Dharmakottai Arulmigu Sri Santhana Karupparayan Thirukkoil, Sengathurai for the 2.00 acres Punja land situated in S.No.81, as per the recommendation of the 3rd respondent dated 27.10.2016 and to protect the usage of Rasipalayam - Senthurai metal road for public.

2. The petitioner though filed as an individual writ petitioner, he claimed to be the in-charge of the Temple called Sri Dharmakottai Arulmigu Sri Santhana Karupparayan Thirukkoil, Sengathurai. According to the petitioner, a landed property to the extent of 2.00 acres i.e., Punja land situated at S.No.81 in the said village had been in possession and enjoyment of the Temple and in this regard, the 3rd respondent had issued a memo on 17.11.2002 with regard to the possession and subsequently, on 27.10.2016, the 3rd respondent has sent a detailed recommendatory order stating that, the petitioner had been in possession of 38 cents in S.No.372 part.

3. On the strength of the said report submitted by the 3rd respondent, the petitioner had given representation to the respondents 1 to 3 on 26.05.2018 separately seek for patta for the said land i.e., for 2 acres in S.No.81 to and in favour of the petitioner i.e., the Temple mentioned above and since the said representation was not considered by the Revenue Authorities i.e., the respondents, the petitioner has filed the present writ petition with the aforesaid prayer.

4. When the case is called, there is no representation for the petitioner. However, the private respondent, who has been impleaded in this writ petition, had filed a miscellaneous petition seeks for impleadment on the ground that, insofar as the said S.No.81 is concerned, since it had been subdivided to various survey numbers like S.No.81/1A, 1B etc., where, in respect of some of the sub divided lands viz., S.No.81/1A, 1B, 2A, 2B, 2C, 3A, 3B and 4C, the impleaded respondent claimed ownership and therefore, if at all any claim is made by the petitioner to seek for patta to the entire land for 2 acres, the private respondent being the owner should be heard, the learned counsel submitted.

5. He has further stated that, the petitioner claimed ownership of the land in question in the name of the Temple, based on an unregistered gift deed dated 13.08.1962 for an extent of 2 acres, which, according to the learned counsel appearing for the 4th respondent, is a fraudulent document as it does not have any legal sanctity to act upon.



6. He would further submit that, insofar as the report dated 27.10.2016 issued by the 3rd respondent is concerned, the said report is a Partisan report given by the 3rd respondent for obvious reasons or the reasons best known to them, as absolutely there is no proof to show that, any point of time, the petitioner or on behalf of the Temple, as he claimed, had been in possession and enjoyment of the property, especially, in S.No.81 as well as S.No.372. Therefore, the petitioner does not have any right to claim patta for the land in question and therefore, his plea made in this regard given by way of representation to the Revenue Authorities i.e., the respondents herein are liable to be rejected, he contended.

7. On the other hand, Mr. Richardson Wilson, learned Government Counsel appearing for the official respondents has relied upon the following averments made in the counter affidavit filed by the 3rd respondent.

"5.I submit that S.F.No.81 is a patta land and as per 'A' Register the land originally belongs to private parties. The S.F.No.81 was subdivided as 81/1A, which belongs to Chinnakannan, S.F.No.81/1B belongs to V.Palani, S.No.81/1C belongs to Govindan, S.No.81/2A belongs to Chinna Kannan, 81/2B belongs to Karuppan, 81/2C belongs to Raman, 81/2D belongs to Jose, 81/2E belongs to Sundaram, 81/3A belongs to Muthulakshmi and 81/4B belongs to Bharath Mohan, 81/4C belongs to Palani, and thereafter due to settlement's between the parties the name of the following persons is found in Adangal. The lands in S.F.No.81/1A, 1B, 2A, 2B, 2C, 3A, 3B, 4C in the name of Thangaraj, 81/1C, 2D, 4A, 4B in the name of Arul Jothi and 81/2E belongs to Sundaram and it was mentioned as they were cultivating corns in the said field. The total extent of S.No.81 is 2 hectares and 22 cents the land other than 30 feet is excluded and all other portions belongs to private individuals.

6.I submit that as per the revenue records in S.No.81 the said Ramachandran Rao, S/o.Subbarayan name does not find any entry in the A-Registry and the gift deed mentioned by the petitioner dated 16.8.1962 is not a registered deed. There is no proof that the land belongs to the said Ramachandran Rao as mentioned by the petitioner in the affidavit.



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7.I submit that in the S.No.372, which is located in River Poromboke land to and extent of 0.38 cents and from S.No.372 to S.No.81, 30 feet road exist but the temple authorities does not produce any valid proof regarding their rights in S.No.81 and S.No.81 belongs to private persons.

8.I submit that it has been cleared mentioned in the certificate issued by the Tahsildar, Sulur, dated 21.10.2016 that the S.No.312/part only and in which 32 cents of the said temple is in possession and the land in S.F.No.372 is a River Poromboke and thereby no patta can be issued.

9.I further submit that the S.F.No.81 belongs to private persons and the temple name does not find any entry in revenue records and thereby patta cannot be issued in the name of the temple pertaining to S.No.81."

8. By relying upon these averments made by the 3rd respondent in the counter affidavit, the learned Government Counsel would submit that, insofar as property at S.No.372 is concerned, it has been classified as 'River Poromboke'. Therefore, the question of giving patta to any individual at S.No.312/part does not arise, in view of the extant rule in this regard and various judgments passed by this Court, as the said land being a River Poromboke and has been classified as 'Water body'. Therefore, patta sought for by the petitioner cannot be granted. Insofar as the S.No.81 is concerned, as has been pointed out by the learned counsel for the 4th respondent, it has been subdivided into various lands at various Survey Numbers viz., 81/1A, 1B, 2A, 2B, 2C, 3A, 3B, 4C and each of the subdivided survey number belongs to individual Pattadars. Therefore, those lands are patta lands and in the said land, absolutely there is no scope for enjoyment on the part of the petitioner at any point of time as no such records are available with the Revenue Authorities and the petitioner also had not produced any document to establish the legal right of the petitioner or the Temple claiming right over the property in question at S.No.81, except the unregistered gift deed dated 13.08.1962. Therefore, the said unregistered gift deed dated 13.08.1962 cannot have any weightage under the legal scrutiny to claim ownership or possession of the property concerned, since the property at S.No.81 as stated above belongs to various individuals. Therefore, the learned Government Counsel appearing for the official respondents would submit that, the plea raised by the petitioner through the representation dated 26.05.2018 made to these official respondents are untenable and not to be considered. Therefore, the said prayer cannot be granted and no patta as claimed by the petitioner can be issued, hence, the



writ petition is liable to be rejected, he contended.

9. I have considered the said submissions made by the learned counsel appearing for the official respondents as well as the private respondent.

10. As has been rightly pointed out by them, the S.No.372 is a River Poromboke like that S.No.81 is a patta land and subsequently, it has been subdivided into various Survey Numbers viz., 81/1A, 1B, 2A, 2B, 2C, 3A, 3B, 4C and in respect of some of the subdivided property, the 4th respondent is the owner and he has claimed for ownership and that possession has not been disputed by the official respondents as of now.

11. Be that as it may, the claim of the petitioner is that, either in his name or in the name of the Temple, he wants patta. Whether he or the Temple is entitled to claim any patta in S.No.81 or S.No.372 are concerned, there is absolutely no document except to say that, an unregistered gift deed said to have been given by one Ramachandra Rao, as that will not confer any title either to the petitioner or to the Temple. Therefore, with the strength of the unregistered gift deed, the petitioner or the Temple cannot claim any ownership of the property and moreover, the said land at S.No.81 since belongs to various individuals, the present plea to give patta to the extent of 2 acres in the said S.No.81 as claimed by the petitioner through his representation dated 26.05.2018 cannot be expected to be considered in his favour, therefore, such a mandamus, this Court is not inclined to issue to and in favour of the petitioner against the official respondents to consider his representation dated 26.05.2018. In that view of the matter and for the reasons stated above, the prayer sought for herein cannot be granted and the writ petition thus fails, accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The District Collector,
Coimbatore District,
Coimbatore.



2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Coimbatore.

3. The Tahsildar,
Sulur Taluk, Sulur.

+1cc to the Government Pleader, S.R.No.32008

W.P.NO.15864 OF 2018

PCH (CO)
PBS/18/08/2021