



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.25332 of 2021

and

W.M.P.Nos.26743 & 26744 of 2021

M. Palanisamy ...Petitioner

Vs.

1. The Tahsildar,
Coimbatore (North),
Coimbatore.

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

3. The District Revenue Officer,
Office of the District Revenue Officer,
Coimbatore.

4. The District Collector,
Coimbatore District.

5. The Zonal Deputy Tahsildar,
Coimbatore North (02 Taluk)
Coimbatore (12) District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records of the first respondent ending with Na.Ka.No.05/2016/A6, dated 10.11.2021 and quash the same and consequently direct the first respondent to issue patta in S.No.709/2, 3 Kalapatti Village, Coimbatore Taluk now bearing S.Nos.709/2A, 3A admeasuring 5.04 acres as sought vide application No.2019/0103/12/178672 dated 27.06.2019.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents: Mr.A.Selvendran
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, calling for records of the first



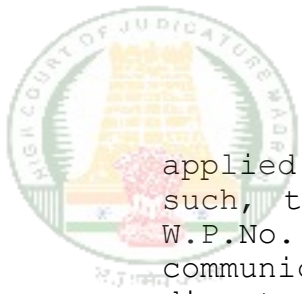
respondent ending with Na.Ka.No.05/2016/A6, dated 10.11.2021 and quash the same and consequently direct the first respondent to issue patta in S.No.709/2 & 709/3 Kalapatti Village, Coimbatore Taluk now bearing S.Nos.709/2A & 709/3A admeasuring to an extent 5.04 acres as sought vide application No.2019/0103/12/178672, dated 27.06.2019.

2. Heard, Mr.N.A.Nissar Ahmed, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents.

3. The property comprised in S.No.709/2A, 3A admeasuring to an extent of 6.14 acres was assigned by the Government in favour of one Kitta Madari and Chinnasami Madari. They sold to one Rengan by a registered sale deed dated 19.07.1967. However, the Additional Collector revoked the conditional assignment and ordered issuance of ayan patta to Karuppasamy vide his proceedings dated 25.09.1978. In pursuant to the same, he was issued patta by the proceedings dated 24.10.1978. Out of 6.14 acres 1.10 acres were allotted to other caste hindus who belongs to the depressed class. For the remaining 5.04 acres, the said Karuppasamy entered into an agreement for sale dated 19.06.1987 with the petitioner. However, the Government of Tamil Nadu cancelled the ayan patta issued in favour of Karuppasamy by the proceedings dated 25.11.1991. It was challenged by the said Karuppasamay to set aside the order passed by this Court and the Hon'ble Division Bench of this Court passed an order dated 18.12.1197 in W.A.No.1214 of 1997 and ordered to restore the revenue records in the name of Karuppasamy.

4. On the strength of the agreement for sale, the petitioner filed a suit in O.S.No.615 of 1998 on the file of the II Additional Sub Court, Coimbatore for specific performance and the same was decreed by a Judgment and Decree dated 15.02.1999 and the same was also confirmed by the Hon'ble Division Bench of this Court in A.S.No.155 of 2000 by a Judgment dated 25.11.2004. In the mean while, the government by an order dated 10.06.2004 ordered resumption of land on the ground that the petitioner's vendor had violated the conditions of assignment.

5. It was challenged by the petitioner in W.P.No.32273 of 2004 and the depressed class people also filed W.P.No.9139 of 2003 for issuance of patta. This Court, by a common order dated 22.04.2010 held that the patta issued in favour of his vendor is violated one, the order of resumption of the subject land dated 10.06.2004 was untenable. Thereafter, the petitioner applied for patta after execution of sale deed in his favour. Accordingly, the sale deed was executed in favour of the petitioner as per the order of the II Additional Sub Court, Coimbatore in O.S.No.615 of 1998 on 14.02.2012. Thereafter, the petitioner



applied for patta. However, the same was not considered and as such, the petitioner was constrained to approach this Court in W.P.No. 32273 of 2004. In fact, the second respondent by the communication dated 16.07.2012, considering all those facts, directed the first respondent to issue patta in favour of the petitioner.

6. In the mean while, the Tamil Nadu Dalit Peoples Association filed W.P.No.13232 of 2012 for issuance of patta for their community people and not to dispossess them. In view of the above, in the said writ petition, the second respondent, by the communication dated 21.07.2012, directed the first respondent to keep in abeyance with regard to the mutation of revenue records. Aggrieved by the same, the petitioner filed an appeal before the third respondent and the same was rejected due to pendency of the writ petition filed by the Tamil Nadu Dalit Peoples Association in W.P.No.13232 of 2012.

7. On the strength of the Judgment and Decree and the sale deed executed in favour of the petitioner, the petitioner filed Execution Petition in E.P.No.115 of 1999. In the mean while, the legal heirs of the petitioner's vendor filed an application in E.A.No.970 of 2007 in E.P.No.115 of 1999 to declare the decree obtained by the petitioner as null and void. The said request was rejected and aggrieved by the same, they also preferred Civil Revision Petition in CRP (NPD) No. 919 of 2012. This Court passed a common order dated 03.06.2019 in W.P.No.13232 and CRP (NPD) No.919 of 2012 and held that the conditions attached to depressed class patta has already been done away in the year 1978 and that on execution of the sale deed, the petitioner was entitled for patta. Therefore, the petitioner applied for patta on 27.06.2019 before the first respondent. However, it was rejected for the reason that the survey numbers did not tally with the sale deed.

8. Against the said order, the petitioner filed writ petition before this Court in W.P.No.26687 of 2019 for issuance of patta. This Court by an order dated 24.02.2021 quashed the impugned order and directed the first respondent to hold enquiry and pass orders within eight weeks. Aggrieved by the same, the petitioner filed W.A.No.914 of 2021 and this Court dismissed the appeal and directed the first respondent to look into the relevant documents i.e., sale deeds, Civil Court decree, orders passed by this Court and pass appropriate orders within a period of eight weeks. However, by the impugned order dated 10.11.2021, the first respondent rejected the petition for issuance of patta for the reason that on the field inspection, it was found that there are 350 families are living in their respective tiled house, shed house and terrace house and also hut. That apart, in the subject land, the Government School, two churches and two



temples are located and the petitioner is not in possession and enjoyment of the same. Those peoples are living for more than 35 years and as such, the application for issuance of patta is dismissed. Admittedly, the petitioner is not in possession and enjoyment of the subject land comprised in Ka.Sa.No.709/2A, 3A, 3B admeasuring to an extent of 5.04 acres situated at Kalapatti Village, Coimbatore.

9. Therefore, the first respondent rightly rejected the request of the petitioner to issue patta and this Court finds no infirmity or illegality in the order passed by the first respondent. Hence, the writ petition is devoid of merits. However, the Execution Petition is pending for delivery of possession in respect of the subject property in E.P.No.115 of 1999 on the filed of the II Additional Sub Court, Coimbatore. After taking possession of the subject property in the manner known to law, the petitioner is at liberty to apply for issuance of patta before the first respondent in the manner known to law.

10. In the result, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Lpp

To

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Coimbatore (North),
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4. The District Collector,
Coimbatore District.



5. The Zonal Deputy Tahsildar,
Coimbatore North (02 Taluk)
Coimbatore (12) District.

Copy To

The II Additional Sub Court,
Coimbatore.

+1cc to M/s. N.A. Nissar Ahmed, Advocate, S.R.No.61871

+1cc to the Spl. Government Pleader, S.R.No.62594

W.P.No.25332 of 2021
and
W.M.P.Nos.26743 & 26744 of 2021

RP(CO)
RGA(06/12/2021)