

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM : MR.JUSTICE N.SESHASAYEE

W.P.No.26687 of 2019

M.Palanisamy

...Petitioner

Vs.

1. The Tahsildar
Coimbatore.

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

3. The District Collector
Coimbatore District.

...Respondents

[R3 suo motu impleaded vide order dated
21.01.2021 in W.P.No.26687 of 2019].

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to grant patta in S.No.709/2, 3 Kalapatti Village, Coimbatore Taluk, now bearing S.Nos.709/2A, 3A admeasuring 5.04 acres as made vide application No.2019/0103/12/178672 dated 27.06.2019 as sought vide representation dated 01.07.2019.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.D.Raja
Addl. Govt. Pleader

ORDER

The property comprised in S.No.709/2A, 3A measuring an extent of 5.04 acres was assigned by the Government in favour of one Kitta Madhari and Chinnasami Madhari. This was in 1936. It was successively sold, first to one Rangan and thereafter, to the petitioner's vendor Karuppasamy. While things stood thus, sometime in 1978, proceedings were passed by the authorities concerned for resumption of the said land. This resulted in Karuppasamy filing W.P.No.6131 of 1991. On 19.09.1991, this petition was allowed, and the proceeding resuming land was quashed.

2. While so, Karuppasamy entered into a sale agreement with the writ petitioner herein/plaintiff in O.S.No.615 of 1998 on the file of the II Additional Sub Court, Coimbatore, which was laid for enforcing the agreement. That came to be decreed and the writ petitioner laid E.P.No.115 of 1999 for execution of the sale deed. That was allowed and when the petitioner attempted to take possession of the property, Karuppasamy's daughter made an obstruction under Order XXI, Rule 97 CPC. At this juncture, the encroachers of the said land filed their petition for obstruction under Order XXI, Rule 97, CPC, while Karuppasamy's daughter Lakshmi filed a petition under Section 47 of CPC to declare that the decree passed in O.S.No.615 of 1998 is a nullity.

3. The petitioner challenged the obstruction petition filed by the encroachers in CRP PD No.907 of 2007. They came to be struck off by this Court vide its order dated 27.10.2010. So far as the petition preferred by Lakshmi under Section 47 CPC is concerned, the same came to be dismissed. This was challenged by Lakshmi in CRP NPD No.721 of 2012. It was taken up with other petitions filed by the other legal heirs of Karuppasamy and they came to be dismissed on 03.06.2019.

4. It may be stated that a certain Tamil Nadu Dalit People Association instituted W.P.No.13232 of 2012 inter alia against the petitioner and also the heirs of the petitioner's vendor Karuppasamy. The association prayed to resume the land and to grant patta to the occupants. This petition also came to be decided along with the aforesaid revision petition and the learned Single Judge of this Court, vide its order dated 03.06.2019 dismissed the same since this order has become final.

5. In this backdrop, the present petitioner has approached the Tahsildar with his representation dated 01.10.2019 for transfer of patta and the same was now rejected by the Deputy Tahsildar on the ground that the petitioner is not in possession of the property in question.

6. The Government has filed its counter and in paragraph 7 thereof, it reiterated the same reasoning.

7. Heard both sides. This Court is amused, but definitely not surprised that the second respondent should consider possession as a criterion for grant of patta to a person who claims title to the property. It is disappointing that some of the lower rung level revenue officials remain uninformed about what the law on the point is.

8. Patta is nothing but something similar to an identification card to ascertain the person from whom land revenue may be collected. The village permanent register, based on which patta is issued, is merely a record of rights made by the authority for the said purpose. No village register is prepared based on the possession of any property and the same is an irrelevant for grant of patta.

9. It appears that the Tahsildar might have been under some real apprehension from the encroachers. The Tahsildar should do his job and fear only his conscience, and not any other persons.

10. Thus, this Court is constrained to quash the impugned proceedings of the second respondent and remit the matter to the first respondent, who shall now hold an enquiry, if so necessary, and pass appropriate orders strictly in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, and taking into consideration whatever that are being stated herein above.

11. This writ petition is disposed of accordingly. There will be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kpl

To

1. The Tahsildar
Coimbatore.

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

3. The District Collector
Coimbatore District.

+1 CC to Mr.N.A.Nissar Ahmed, Advocate sr 11295.

+1 CC to The Government Pleader sr 11427.

W.P.No.26687 of 2019

RV(CO)
SP(08/03/2021)