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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.15720 of 2017

Krishnappa

...Petitioner

Vs

1. The District Collector,
Krishnagiri

2. The District Revenue Officer,
Office of the District Collectorate,
Krishnagiri District

3. The Sub Collector / Revenue Divisional Officer,
Hosur,
Krishnagiri District

4. The Tahsildar,
Taluk Office,
Hosur, Krishnagiri District

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Pa.Mu.No.8791/2017/J2 dated 02.05.2017, quash the same and consequently direct the respondents to issue patta to the petitioner in respect of the land to an extent of 74 cents in survey no.30/2, Kodiyalam Village, Hosur Taluk, Krishnagiri District within the time to be stipulated by this Court.

For Petitioner : Mr.V.Ayyapparaja

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate

ORDER

The writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Pa.Mu.No.8791/2017/J2 dated 02.05.2017, quash the same and consequently direct the respondents to issue



patta to the petitioner in respect of the land to an extent of 74 cents in survey no.30/2, Kodiyalam Village, Hosur Taluk, Krishnagiri District within the time to be stipulated by this Court.

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2. The property comprised in survey No.30/2 to an extent of 74 cents is classified as 'Karadu Poramboke' in the revenue records adjoined with the petitioner's land comprised in survey No.23/11, Kodiyalam Village, Hosur Taluk, Krishnagiri District. The petitioner is in possession and enjoyment of the same. The petitioner also filed suit in OS.No.129 of 2009 as against the private parties on the file of the District Munsif Court, Hosur for declaration and injunction and the same was decreed in his favour by the judgment and decree dated 17.11.2009. Thereafter, the petitioner applied for patta and no order had been passed. Therefore, the petitioner approached this Court in WP.No.35849 of 2016 for direction and this Court by order dated 02.02.2017 directed the first respondent to consider the representation and pass orders. While enquiry, the petitioner submitted all the documents and stated that originally the property was purchased by his ancestors by the registered sale deed dated 08.08.1895 registered vide document No.740 of 1895 in the Office of the Sub Registrar, Hosur.

2.1 Under the Madras Inam Estates (Abolition and Conversion into Ryotwari) Act, the petitioner's father approached the Settlement Tahsildar and obtained patta in his favour on 26.05.1971. On perusal of the order dated 26.05.1971, revealed that the subject property have been conveyed through documents and it has been under cultivation and enjoyment of the petitioner's father. Therefore, under Section 11 of the Madras Inam Estates (Abolition and Conversion into Ryotwari) Act, is satisfied and in exercise of the powers delegated to the Settlement Tahsildar under GO.No.403 (Rev) dated 15.02.1965, the Settlement Tahsildar hold that the petitioner's father is eligible for ryotwari patta in respect of the subject land. However, the said land has been reclassified as Karadu Poramboke. However, the first respondent without considering the above facts and dismissed the request of the petitioner for the reason that the Village Administrative Officer of the Kodiyalam Village made statement that the subject land stood as 'tharisu' in the village accounts. Further as per the Inam Abolition Act 26 of 1969 and Minor Inam Abolition Act, 30 of 1969 Section 11 (3) with Section 8(1) (i) as against the order passed by the Assistant Settlement Officer within a period of three months they have to file an appeal. However, the petitioner or his father did not approach the authority within a period of three months. Therefore, rejected the claim made by the petitioner.



3. Heard, Mr.V.Ayyapparaja, the learned counsel for the petitioner, and Mr.A.M.Ayyadurai, Government Advocate appearing for the respondents.

4. The first respondent also filed counter, which revealed that the land comprised in survey No.30/2 admeasuring 2.46.5 hectares situated at Kodialam Village has been classified as 'Karadu Poramboke' and it belongs to the Government of Tamilnadu. The petitioner encroached some extent of this land and is enjoying the same by payment of 'B' memo charges. It will not confer any right to the petitioner for issuance of patta. Further revealed that as per GO.Ms.No.714 CT & RE Department dated 29.06.1987, there is no law to admit any claim under Estate Abolish Act for issuance of patta. The petitioner after lapse of 50 years, is belatedly claiming over the said land.

5. It is also curious to note that the counter never whisper about the patta issued in favour of the petitioner's father by the Settlement Tahsildar dated 26.05.1971. Therefore, on the request made by the petitioner's father, his request was considered and he was granted patta by the Settlement Tahsildar in respect of the subject property. If at all any grievance over the same, the revenue authorities have to file an appeal as contemplated under GO.Ms.No.714 CT & RE Department dated 29.06.1987 within a period of three months. Therefore, the petitioner or his father need not to file any appeal since the petitioner's father was already granted patta by the Settlement Tahsildar. However, under the UDR, the subject land was wrongly classified as 'Karadu Poramboke' and as such the petitioner paid 'B' memo charges. Admittedly, the petitioner is in possession and enjoyment of the same for the past several decades.

6. Considering the above, the order impugned is liable to be set aside. Accordingly, the impugned order dated 02.05.2017 is set aside and the writ petition is allowed. The first respondent is directed to conduct fresh enquiry after calling for the report from the Settlement Officer with regards to the patta issued in favour of the petitioner's father dated 26.05.1971 and after giving opportunity of hearing to the petitioner, and pass fresh orders to reclassify the subject land as patta land on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order. No order as to costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar



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To

1.The District Collector,
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Krishnagiri District

4.The Tahsildar,
Taluk Office,
Hosur, Krishnagiri District.

+1cc to Mr.R.Bharath Kumar, Advocate SR. No.65567

+1cc to Government Pleader SR. No.65819

WP.No.15720 of 2017

PL (CO)

PR (23/12/2021)