



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD)No.12906 of 2013

M.P. (MD) No.1 of 2013 and WMP(MD) No.4317/2020

(Through Video Conferencing)

M.V.L.Mohan @ Manikandan

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District, Theni.

2.The Revenue Divisional Officer
Uthammapalayam, Theni District.

3.The Tahsildar
Uthammapalayam, Theni District.

4.P.S.S.S.Murugan

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records related to the 1st respondent in his proceedings Na.kKa.No.40852/2010/T4 dated 09.07.2013 and quash the same.

For Petitioner

:Mr.PT.S.Narendravasan

For Respondents

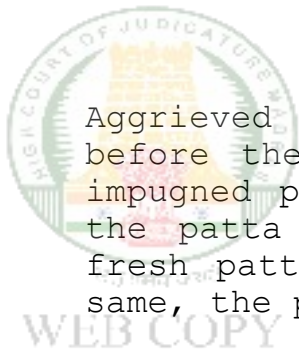
:Mr.D.Muruganandham for R1 to R3
Additional Government Pleader

Mr.K.Guhan for R4

ORDER

This writ petition has been filed challenging the order passed by the first respondent through the impugned proceedings dated 09.07.2013.

2. The fourth respondent made an application before the third respondent seeking for issuance of patta in his name with respect to the subject property. The third respondent, by proceedings dated 06.05.2010, dismissed the application submitted by the fourth respondent and the same was further confirmed in appeal by the second respondent through the proceedings dated 18.08.2010.



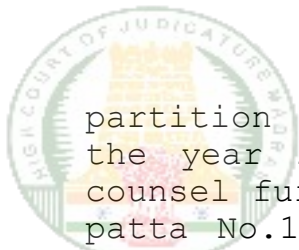
Aggrieved by the same, the fourth respondent preferred an appeal before the first respondent and the first respondent through the impugned proceedings dated 09.07.2013 directed the cancellation of the patta granted in favour of Subbusamy Goundar and to grant a fresh patta in favour of the fourth respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

3.The learned counsel for the petitioner submitted that even as per the admitted case of the fourth respondent, it is the petitioner, who is in possession and enjoyment of the property for more than 26 years. The learned counsel submitted that Subbusamy, who is the junior paternal uncle of the fourth respondent, was in possession of this property and patta was also issued in his favour under the Land Development Scheme. Thereafter, the said Subbusamy had orally leased the property in favour of the petitioner and the petitioner continued to possess and enjoy the property and had developed the property. The learned counsel submitted that if at all the fourth respondent had any claim over the property, he should have established the same before the competent civil Court and the revenue authority should not have dealt with the right and title of the property, like a civil Court. Hence, the impugned order passed by the first respondent requires interference of this Court.

4. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 submitted that Subbusamy had managed to get a patta in his favour by utilizing the UDR Scheme without the knowledge of the fourth respondent. It was further submitted that it is only the District Revenue Officer, who is vested with the jurisdiction to rectify the mistake in the UDR scheme and the first respondent, after verifying the entire documents, has rectified the mistake and has cancelled the patta issued in favour of Subbusamy and has directed the patta to be issued in favour of the fourth respondent. The learned counsel submitted that the first respondent has acted well within the jurisdiction and there is absolutely no ground to interfere with the same.

5. The learned counsel appearing on behalf of the 4th respondent, after bringing to the notice of this Court the counter affidavit filed by the fourth respondent, submitted that the subject property originally belonged to Tmt.Meenakshi Ammal and Ponniah Thevar. The father of the 4th respondent, namely, Sikkaiah Goundar purchased the property by a registered sale deed dated 02.07.1959. Subsequently, the property continued to be enjoyed by the legal heirs of Sikkaiah Goundar and a partition took place in the year 1978 and the same was reduced into writing through a registered partition deed on 07.02.1978. As per the partition deed, the 'D' Schedule property was allotted in favour of the fourth respondent.

<https://hcservices.courts.mca.gov.in/hcservices/> Northern boundaries were wrongly mentioned in the

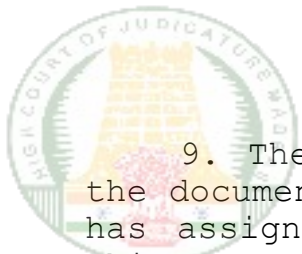


partition deed, a rectification deed also came to be registered in the year 2012 and the correction was carried out. The learned counsel further submitted that the earlier patta that was granted in patta No.1732 was jointly issued in the name of Chinnasamy Thevar and the fourth respondent. The above said Subbusamy, taking advantage of the absence of the fourth respondent, managed to get patta under the Land Development Scheme with regard to the property that belonged to the fourth respondent. The learned counsel submitted that this happened at the time when the UDR Scheme was undertaken and this patta was issued without any right or title in favour of the said Subbusamy. The learned counsel further submitted that the said Subbusamy is said to have subsequently given the property on oral lease in favour of the petitioner. It was therefore submitted that the petitioner has absolutely no right to resist the issuance of patta in favour of the fourth respondent and the first respondent, after going through the entire documents, has rightly cancelled the patta issued in favour of Subbusamy and has directed the patta to be issued in the name of the fourth respondent. The learned counsel submitted that there are absolutely no grounds to interfere with the order passed by the first respondent.

6. This Court has carefully considered the submissions made on either side and perused the materials available on record.

7. The petitioner is claiming right over the property by virtue of an oral lease, which is said to have been given in his favour by one Subbusamy. The said Subbusamy was granted patta with respect to the subject property under the Land Development Scheme. The patta that was granted in favour of Subbusamy was not based on any documents and it was merely based on possession over the property. The fourth respondent has traced his right over the property from the year 1959 onwards. The documents that have been filed before the first respondent shows that the property was originally owned by one Sikkaiah Goundar and the legal heirs of Sikkaiah Goundar had partitioned the properties among themselves and the subject property was allotted in favour of the fourth respondent. In fact, there was a joint patta that was standing in the name of the fourth respondent and one Chinnasamy Thevar. It was only during the UDR scheme, the entire confusion had taken place and the above said Subbusamy was granted patta under the Land Development Scheme.

8. Any mistake that had taken place during the UDR scheme can be rectified only by the District Revenue Officer. Therefore, the District Revenue Officer, who is the first respondent, on going through the entire documents and after considering the respective rights of the parties, found that the patta has been wrongly issued in favour of Subbusamy and hence decided to rectify these mistakes and directed cancellation of the patta in the name of Subbusamy and further directed issuance of patta in the name of the fourth



9. The first respondent had taken this decision only based on the documents placed at the time of enquiry and the first respondent has assigned sufficient reasons while passing the impugned order. This Court does not find any illegality or infirmity in the orders passed by the first respondent and it does not require any interference from this Court. If at all the petitioner has any independent claim over the subject property, it is always left open to the petitioner to approach the competent civil Court and establish his right.

10. In the result, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (crl)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

RR

To

1.The District Revenue Officer,
Theni District, Theni.

2.The Revenue Divisional Officer
Uthammapalayam, Theni District.

3.The Tahsildar
Uthammapalayam, Theni District.

+1 CC to M/s.K.GUHAN, Advocate (SR-15539[F] dated 08/04/2021)

+1 CC to M/s.SPL GP (SR-15636[F] dated 09/04/2021)

W.P. (MD)No.12906 of 2013

08.04.2021

GS (30.04.2021) 4P 6C

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