



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

CORAM :

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10903 of 2021

and

W.M.P. (MD) .No.8562 of 2021

K.Thangaraj

...Petitioner

Vs.

1. The District Collector,
The Office of the District Collector,
Ramanathapuram-623 503,
Ramanathapuram District.

2. The Sub-Collector,
Ramanathapuram-623 501,
Ramanathapuram District.

3. The Tahsildar,
Ramanathapuram Taluk-623 501,
Ramanathapuram District.

4. Amalan Sebasthiyus

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the second respondent/Sub-Collector in Pa.Mu.A6/7227/2020, dated 12.06.2021 and quash the same.

For Petitioner

: Mr.K.Ragatheesh Kumar

For R-1 to R-3

: Mr.M.Lingadurai,

Government Advocate

ORDER

This Writ Petition has been filed challenging the proceedings of the second respondent, dated 12.06.2021, wherein, the patta which stood in the name of the petitioner, with respect to the subject property, was cancelled.

2. The specific case of the petitioner is that the original owner of the property, namely, one Krishnan, had executed an agreement of sale and a Power of Attorney, in favour of the petitioner, and the petitioner had also paid an advance amount. That



apart, the petitioner claims that he was allowed to run a petroleum outlet, which was subsequently closed in the year 2007 and thereafter, the petitioner was in possession and enjoyment of the same. The petitioner also made an application before the Tahsildar, seeking for change of patta in his name and through proceedings, dated 01.09.2016, the patta was also changed in the name of the petitioner.

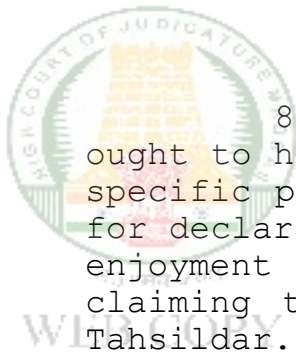
3. The grievance of the petitioner is that the second respondent without considering any materials and without taking into account the Decree passed in the suit and which was subsequently confirmed in the appeal, proceeded to cancel the patta issued in favour of the petitioner. Aggrieved by the same, the petitioner has approached this Court.

4. Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

5. The main grounds that were raised in the present writ petition are that the order was passed by the second respondent without affording reasonable opportunity to the petitioner and the next ground is that the second respondent did not consider the continuous possession of the petitioner and also did not consider the earlier Judgment and Decree passed by a competent Civil Court and has illegally cancelled the patta.

6. Insofar as the first ground is concerned, the same is totally un-sustainable. A careful reading of the impugned order passed by the second respondent itself shows that the petitioner was represented by an Advocate and the petitioner had filed detailed objection, which was taken into consideration by the second respondent. Therefore, there is no question of the petitioner being deprived of an opportunity to put forth his case.

7. Insofar as the next ground is concerned, admittedly, the petitioner does not have any title over the property. The petitioner claims to be an agreement-holder and a Power of Attorney also seems to have been issued in favour of the petitioner in the year 2001. That apart, the petitioner does not have any documents to claim title over the property. It is true that the suit filed by the owner of the property was dismissed and it was confirmed in appeal. However, it was only the suit for bare injunction and since the petitioner was in possession of the property, the Civil Court had dismissed the suit, which was subsequently confirmed in appeal. This Judgment and Decree passed by a Civil Court cannot be a basis for issuing patta in favour of the petitioner. The owner of the property has dealt with his property and has sold it in favour of the fourth respondent, by virtue of a sale deed, dated 07.09.2019. This sale deed has also not been put to challenge by the petitioner.



8. In the considered view of this Court, the petitioner ought to have approached the Civil Court and either filed a suit for specific performance based on the agreement of sale or filed a suit for declaration on the basis that he is in continuous possession and enjoyment of the property. Instead the petitioner seems to be claiming title by virtue of a patta issued in his favour by the Tahsildar. A patta can never be a document of title and law on the issue is well settled.

9. In view of the above discussion, this Court is not inclined to interfere with the order passed by the second respondent and this Court does not find any illegality or infirmity in the impugned order. At the best, the petitioner has to work out his remedy only before a competent Civil Court.

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

Sd/-

Assistant Registrar (CSIII)

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/ /2021

Sub Assistant Registrar(CS)

tsg

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.

To

1. The District Collector,
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Ramanathapuram District.
2. The Sub-Collector,
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Ramanathapuram District.



W.P.(MD).No.10903 of 2021

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-21152[F] dated 05/07/2021)

+1 CC to M/s.SPL GP (SR-21172[F] dated 05/07/2021)

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