



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.04.2022
CORAM :

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THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1055 of 2022

A.Gowthaman

...Appellant/Petitioner

Vs.

- 1 The District Collector
First Floor, Collectorate
Nagapattinam - 611 001.
- 2 The Tahsildar
Tharangampadi Taluk
Nagapattinam District.
- 3 The Special Tahsildar
Natham Nilavari Thittam
Tharangampadi Taluk
Nagapattinam District.
- 4 The Special Tahsildar
Adi Dravidar and Tribunal Welfare Department
First Floor, Collectoarate
Nagapattinam- 611 001.
- 5 The Village Administrative Officer
Tharangampadi Taluk,
Nagapattinam District.
- 6 The Revenue Divisional Officer
Office of the Revenue Divisional Office
Myladuthurai, Nagapattinam District.
- 7 P.Rajendhran
- 8 Saminathan

..Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.11.2021 passed in W.P.No.15733 of 2020.



Prayer in W.P. No. 15733/2020:Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent and second respondent to include and record the Patta No.816 issued by the third respondent to the petitioner in the revenue records such as "A"-Register, Chitta Register, Patta Register, Adangal Register and FMB Book and other revenue records maintained at Taluk and District Level in respect of property comprised in Old Survey No.13/5B, New No.13/35 measuring to an extent of 105 sq.m. situated at Keedaram Kondan Village, Tharangampadi Taluk, Nagapattinam District within the time stipulated by this Hon'ble Court.

For the Appellant : Mr.P.Jagadeesan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 to 6

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge is made to the judgment dated 24.11.2021 whereby the writ petition preferred by the appellant to include and record the Patta No.816 issued by the third respondent in favour of the appellant in the revenue records was dismissed.

2. The writ petition has been dismissed finding that the third respondent had no authority to issue patta and otherwise no record exists in the revenue department to indicate that patta was ever issued in favour of the appellant. It is also a fact that the land aforesaid was earmarked for shops and playground. Thus, there was no question of allotment of patta for house-site. The fact further recorded by the learned Single Judge is regarding fabrication of the document. It was also held that the appellant was an encroacher on the land and the encroachment was removed subsequently.

3. Learned counsel for the appellant submits that a patta was issued by the third respondent in favour of the appellant and it is only thereafter he took possession of the land. Thus, the patta issued in favour of the appellant cannot be said to be fabricated. It is more so when in respect of pattas issued to similarly placed persons by the same authority no action has been taken.



4. It is further submitted that the appellant is not an encroacher, but was holding a patta in his favour and, therefore, the prayer is to set aside the judgment of the learned Single Judge and accept the prayer made in the writ petition.

5. We have considered the submission made by learned counsel for the appellant and perused the records.

6. The writ petition was filed to seek a direction on the respondents to record the patta in the revenue records. The learned Single Judge did not accept the prayer after going through the patta, firstly on the ground that the third respondent, i.e., the Special Tahsildar, was having no authority to issue patta, rather the authority for it was lying with the District Adi Dravidar Welfare Officer, Nagapattinam.

7. A perusal of the impugned judgment further shows that land comprised in Survey No.13/5B was acquired for granting free house site pattas to houseless Adi Dravidars and 34 house site pattas were granted. The vacant site was allotted for construction of fair price shop. The appellant encroached the said land and put up a small hut, for which objection was raised by the villagers and when no action was taken, a complaint was made to remove the encroachment. When the matter was sent for verification by the second respondent, a report was sought from the Taluk Sub Inspector of Survey and it was found that no patta was issued in favour of the appellant in Patta No.816. Therefore, the patta produced by the appellant is a fabricated one and it was also found that the appellant is not residing at the site in respect of which he is claiming patta, but residing at R.S.No.13/20, which stands in the name of his mother. The learned Single Judge further noted that during the pendency of the writ petition, an application was also filed by the general public alleging that the appellant is an encroacher of the land and on their complaint, the encroachment was removed.

8. Taking into consideration the aforesaid facts, no case was found in favour of the appellant to grant the relief for recording the patta in the revenue register. Rather, a perusal of the so-called patta does not show it to be a patta, but a proposal. The appellant is otherwise residing at the land comprised in Survey No.13/20, which belongs to his mother.

In view of above, we do not find any error in the judgment of the learned Single Judge so as to cause



interference. Accordingly, the writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.6632 of 2022 is closed.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

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+1 CC to Mr.P.Jagadeesan, Advocate sr 28070

+1 CC to The Government Pleader sr 28183

W.A.No.1055 of 2022

SR(CO)
SP(29/04/2022)