



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.A.No.1281 of 2022

V.Shanmugam

...Appellant / Petitioner

Vs

The Tahsildar,
Kangayam Taluk, Kangayam,
Tiruppur District.

...Respondent / Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 10.11.2021 passed in W.P.No.14364 of 2021 on the file of this Court.

Prayer in W.P.No.14364 of 2021 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus Calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.1489/2021/A6, dated 10/06/2021 and quash the same and consequently directing the respondent to issue patta in favour of the petitioner in respect of the house site situated in R.S.No.483/13 Nall Road Village, Kangayam Taluk, Tiruppur District.

For the Appellant : Mr.C.Prakasam

For the Respondent : Mr.P.Muthukumar
State Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

By this writ appeal, challenge is made to the judgment dated 10.11.2021 whereby the writ petition preferred by the appellant to challenge the order dated 10.06.2021 with a direction to the respondent to issue patta in favour of the appellant was dismissed.



2. Learned counsel for the writ appellant submits that despite an order issued by the Government to grant patta in favour of those who are in possession of the land for more than five years, the representation made by the appellant was rejected despite long possession of the appellant on the land in question. Referring to a sale deed, it is submitted that the writ appellant's father had purchased the land and since then, they are in peaceful enjoyment of it, but, the fact aforesaid was also ignored by the learned Single Judge. The order of the learned Single Judge is even in ignorance of the decree passed on a suit, though it may be partition decree between the appellant and his brothers but was having relevance to the issue raised in the petition and to prove the possession and right to get patta. The writ appellant had even submitted the house tax receipts which stood in the name of the appellant's father and thereby, the learned Single Judge has wrongly arrived at the conclusion that the appellant has failed to prove his possession. It may be true that the land in question is classified as Government Poromboke, but in the light of the order issued by the Government, the appellant was entitled to get patta and accordingly, the prayer is to set aside the judgment of the learned Single Judge and the order impugned in the writ petition, with a direction to the respondent to issue patta of the land in question to the appellant.

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

4. It is not in dispute that the land in question for which patta has been sought by the appellant is classified as "Government Poromboke". The right on the land has been claimed based on the decree passed by a Civil Court. The learned Single Judge found that the decree is for partition between the appellant and his brothers where the revenue department was not a party to the litigation and thereby, no claim can be based on the decree between the appellant and his brothers.

5. The learned Single Judge further found that the appellant could not prove his possession, so also his father and for that purpose, even the reference of sale deed of the land was taken into consideration. The sale deed produced by the writ appellant does not show purchase of the property by his father. The appellant claimed purchase of the property by his grand father, but the learned Single Judge did not find any document to prove the relationship. In the absence of the proof of relationship with the purchaser, the right claimed by the appellant was not accepted. It is more so when the appellant's father is alive, but he did not pursue the claim for regularisation or for grant of patta, but it has been pursued by the appellant and in any case, documents should have been submitted to prove the



relationship of the appellant with that of the purchaser named in the sale deed. In the absence of proof, the statement in regard to the relationship of the appellant with that of the purchaser was not accepted by the learned Single Judge, so also the possession of land by the appellant.

6. The appellant has claimed right to get patta based on the order issued by the Government in the year 2019. The direction has not been given that all the encroachers of the land should be given patta, rather a policy or a scheme was framed to settle the issue in the light of the fact that large encroachment on the Government land and even on waterbodies was found, thus, to rehabilitate them, the order was issued. The order aforesaid cannot be read against the statute, rather the right for allotment of land / grant of patta should flow from the Revenue Laws or any other provision for that purpose. The Government land cannot be allotted in any manner prayed by the appellant, but only after considering the underlying facts and the provisions of law.

7. In the light of the aforesaid, even we do not find that a claim can be based on the order of the Government and otherwise, the order cannot be endorsed in absence of provision for issuance of patta to the encroacher even on the land belonging to a waterbody.

In view of the discussion made above, we do not find any reason to cause interference in the order of the learned Single Judge. The writ appeal, accordingly, fails and the same is dismissed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

sra

To:

The Tahsildar,
Kangayam Taluk, Kangayam,
Tiruppur District.

+1cc to the Government Pleader Sr.No.38208

W.A.No.1281 of 2022

KK(CO)
RVM(28/06/2022)