



WEB COPY



W.P.No.22857 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.22857 of 2018
and
W.M.P.Nos.26701 and 20702 of 2018

S.Nagaraj

... Petitioner

Vs.

1. The District Revenue Officer-cum-
Additional District Executive Magistrate,
Coimbatore District,
Coimbatore.
2. The Revenue Divisional Officer,
Coimbatore (South),
Coimbatore – 641 018.
3. The Tahsildar,
Madhukkarai Taluk,
Coimbatore.
4. Assistant Commissioner, HR and CE Department,
Coimbatore-18.
(*R4 Sou Motu impleaded as per order dated 02.03.2020
made in W.P.No.22857 of 2018*)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in his proceedings in Ni.Mu.8785/2016/E1 dated 31.05.2018 and quash the same and consequently



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direct the respondents 1 to 3 herein to issue Patta to the petitioner's property situated in Kuruchi Village bearing S.No.429/1 measuring an extent of Acre 2.33 together with well and electricity connection, Survey No.429/1 measuring an extent of Acre 1.40, Survey No.427/2 measuring an extent of Acre 0.54 and Survey No.368 measuring of an Acre 0.38.

For Petitioner : M/s.A.Tamilvanan

For Respondents : Mr.U.Bharanidharan
Additional Government Pleader for R1 to R3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in his proceedings in Ni.Mu.8785/2016/E1 dated 31.05.2018 and and consequently direct the respondents 1 to 3 herein to issue Patta to the petitioner's property situated in Kuruchi Village bearing (i) S.No.429/1 measuring an extent of 2.33 Acres together with well and electricity connection (ii) S.No.429/1 measuring an extent of 1.40 Acres, (iii) S.No.427/2 measuring an extent of 0.54 Acre (iv) S.No.368 measuring an extent of 0.38 Acre.

2. The case of the petitioner is that the above said properties were owned by the petitioner's father and mother after purchasing them from one

Muthu Subramania Gurukal, Gowri Sankara Gurukal and Umapathy i.e.,



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trustee of M/s.Kurichi Valeeswara Swamy Temple, *vide* separate Sale Deeds dated 17.03.1988. Thereafter, the petitioner's father and mother executed two separate Wills dated 28.02.2001 and 28.06.2005 bequeathing the above said properties in favour of the petitioner. After the demise of petitioner's father and mother, the above said Will came into existence. Prior to the above said purchase, the Settlement Tahsildar *vide* proceedings dated 24.09.1968, issued Ryotwari Patta in favour of M/s.Kurichi Valeeswara Swamy Temple, which was under challenge before the Inam Abolition Special Tribunal in C.M.A.No.92 of 1974 by said Muthu Subramania Gurukul and one Ganapathi Sundara Gurukul. The Special Tribunal, *vide* order dated 30.08.1974 had set aside the proceedings of the Settlement Tahsildar and directed the Settlement Tahsildar to issue Patta in favour of the vendors of the petitioner's father and mother. During the appeal proceedings, the second respondent *vide* order dated 26.10.2015, directed the petitioner to approach the competent Civil Court to seek appropriate relief for issuance of Patta after impleading the H.R. & C.E Department. Aggrieved over the same, the petitioner preferred Revision before the first respondent herein under Section 13 of Patta Passbook Act, who in turn dismissed the Revision Petition *vide* impugned order dated 31.05.2018 and confirmed the order of the second respondent dated 26.10.2015. While that being so, the H.R.&C.E. Department interfered with



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the peaceful possession of the petitioner, due to which, the petitioner made a representation dated 11.07.2018 before the first respondent seeking issuance of Patta in favour of the petitioner. Challenging the order passed by the first respondent, the petitioner has filed the present Writ Petition seeking the aforesaid relief.

3. Learned counsel for the petitioner at the time of arguments restricted his prayer and sought permission of this Court to grant liberty to the petitioner to file civil suit before the competent Civil Court with regard to the title in respect of the above said properties and subject to the outcome of the said suit, the petitioner may be directed to file a fresh application seeking issuance of Patta before the competent authority and appropriate orders may be passed within the time frame that may be stipulated by this Court.

4. Learned counsel appearing for respondents 1 to 3 submitted that based on the objections received from the H.R.&C.E. Department stating that the petitioner has no valid title to the subject property as it originally belonged to the above said Temple. Individuals cannot claim right over the same and the petitioner's claim was rejected citing the fact that unless and until the title with regard to the subject properties is clearly established, issuance of Patta will not



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arise. Hence, the petitioner was directed to file a suit before the competent authority to establish his right over the subject properties and if the petitioner succeeds the said suit, he may be directed to file a fresh application before the appropriate forum seeking patta and appropriate orders will be passed subject to the result of the said suit.

5. Admittedly, the Settlement Officer granted Ryotwari Patta in favour of M/s.Kurichi Valeeswara Swamy Temple *vide* proceedings dated 24.09.1968. Further the petitioner claims that his mother and father purchased the above said properties from their vendors. However, the first and second respondents rejected the claim made by the petitioner seeking patta on the sole ground that the Settlement Tahsildar *vide* proceedings dated 24.09.1968, had granted Inam Patta in respect of the subject properties in favour of the above said Temple and therefore, transfer of Patta was not effected in favour of the petitioner and further directed the petitioner to approach the competent Civil Court to seek appropriate relief for issuance of Patta after impleading the H.R.&.C.E Department.



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6. Though the facts stands as above, however, considering the limited request of the petitioner, this Court without interfering with the impugned order passed by the first respondent, permits the petitioner to canvass all his grievances before the competent Civil Court by filing appropriate suits by impleading the H.R.&C.E Department and if the said suit is decreed in favour of the petitioner, liberty is granted to the petitioner to file a fresh application before the appropriate forum.

7. Accordingly, this Writ Petition is dismissed with the above observation and directions. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non speaking order : Yes / No

RAP



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