



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.22299 OF 2014

H.S.Ramakrishnan

...Petitioner

Vs

1.The District Revenue Officer,
Avalapalli Village, Hosur Taluk,
Krishnagiri District.

2.The Tahsildar,
Hosur Taluk,
Krishnagiri District.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus to call for the records bearing reference number Ne. Mo. 20838/2008/J2 dt 16.7.2014 on the file of the 1st respondent and quash the same and further direct the 2nd respondent to issue a patta in respect of the land situate at S. No.821/2 Avalapalli Village Hosur Taluk Krishnagiri District admeasuring about 0.57.5 Hectares.

For petitioner : Mr.K.Abhirame
For M/s.V.Ragavachari

For Respondents : Mr.A.Anand
Government Advocate

O R D E R

The writ petition has been filed seeking to quash the order in reference No.Ne. Mo. 20838/2008/J2 dt 16.7.2014 on the file of the 1st respondent and further direct the 2nd respondent to issue a patta in respect of the land situate at S. No.821/2 Avalapalli Village Hosur Taluk Krishnagiri District admeasuring about 0.57.5 Hectares.

2. The case of the petitioner is that the land in s.No.821/2 Avalapalli Village, Hosur Taluk, Krishnagiri District, originally belonged to one Ramasamy Boyen. He was in possession of the property over 40 years. Based on his possession, he had



applied for issuance of patta to the first respondent and the same was rejected. Therefore, he filed a suit in O.S.No.222/1991 before the District Munsif, Dharmapuri against the Government. The said suit was decreed ex-parte on 06.03.1992. Pursuant to the said order, the patta was issued in the name of the Ramasamy Boyen on 10.03.1993. The legal heirs of the said Ramasamy Boyen had sold the property to one Rathnamma and Shivaram vide registered sale deed dated 24.07.1998 in doc. No.3417 of 1998 before the SRO, Hosur. Thereafter, the petitioner has purchased the aforesaid property from one Rathinamma and Sivaraman on 04.05.2008. After purchase, the petitioner made an application to the Tahsildar, Hosur, to issue patta in his favour and the Tahsildar refused to issue patta on the ground that the said land is classified as government poromboke land and hence, rejected the application. Therefore, the petitioner approached the first respondent and in turn, the first respondent forwarded the application to the second respondent. Due to the inaction of the second respondent, the petitioner filed a writ petition before this Court in W.P.no.29915/2009 to implement the order of the first respondent dated 16.10.2008. The Hon'ble Court, vide order dated 23.09.2009, directing the respondents therein to issue patta to the petitioner within a period of eight weeks. Pursuant to which, patta was issued in favour of the petitioner. Subsequently, the Sub Collector, Hosur, passed an order cancelling the patta on the ground that the land was a government poromboke. As against the said order, the petitioner filed an appeal before the first respondent. After conducting enquiry, the first respondent has also confirmed the order of the Sub Collector and passed the present impugned order dated 16.07.2014. Challenging the same, the present petition has been filed before this Court seeking appropriate remedy.

3. The learned counsel for the petitioner submitted that the respondents ought to have considered the patta had been granted pursuant to a decree of the civil court as early as in 1992. The learned counsel further submitted that the 'A' Register reflects the name of Ramasamy Boyen. The refusal of the first respondent to consider this fact on the ground that statutory authorities did not perform their functions cannot be a ground to pass the impugned order. Hence, the learned counsel seeks to quash the impugned order passed by the first respondent and direct the 2nd respondent to issue a patta in respect of the land in favour of the petitioner.

4. The learned Government Advocate submitted that inadvertently, the respondents granted patta in favour of the petitioner's vendor. After enquiry, the subject property is classified as 'kallanguthu poromboke'. The entire dispute is civil in nature. With regard to the dispute, the petitioner has to approach the competent civil court. On the contrary, the



petitioner has filed the present writ petitioner under Article 226 of the Constitution of India, which is not sustainable and the same is liable to be dismissed.

5. Heard, the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the Government and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner had purchased the afore said property from one Rathinamma and Sivaram during the year 2008. It is also not in dispute that the petitioner's vendor's vendor was issued patta in his favour. The learned Government Advocate submitted that the respondents subsequently cancelled the patta on the ground that the said land is classified as 'Kallanguthu Poromboke'. Such being the case, there exists a dispute with regard to subject property between the petitioner and the Government, this Court cannot interfere in the matter by exercising its jurisdiction under Article 226 of the Constitution as the Court cannot enter into disputed questions of fact. The petitioner has to approach the competent civil forum to solve the issue and the revenue officials have also no power to decide the matter.

7. Considering the facts and circumstances of the case, this Court passes the following order:

(i) This Court directs the petitioner to approach the competent civil Court and file a suit for establishing his rights.

(ii) if the petitioner approach the civil Court, the learned Judge shall decide the case independently, without influencing the observation made in the impugned order;

(iii) if the petitioner succeeds the suit, the petitioner shall make a fresh application/petition to the concerned respondents along with the decree passed by the trial Court. After receipt of such application, the respondents shall consider the same and pass appropriate order, after affording opportunity to the necessary parties, based on the decree of the trial Court, on merits and in accordance with law.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1.The District Revenue Officer,
Avalapalli Village, Hosur Taluk,
Krishnagiri District.

2.The Tahsildar,
Hosur Taluk,
Krishnagiri District.

+lcc to Mr.V.Raghavachari, Advocate, Sr.No.17966

W.P.No.22299 of 2014

BR(CO)
RVM(30/03/2022)