



W.P.(MD)No.1140 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.1140 of 2020

R.Manoharan

... Petitioner

Vs

1.The Revenue Divisional Officer
/ Sub Collector,
Palani, Dindigul District.

2.The Tahsildar,
Palani Taluk,
Dindigul District.

3.R.Mohanraj

4.R.Prabhakaran

5.R.Babu alias Sridharran

6.R.Parthiban

7.R.Vijayan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in O.Mu.No.5974/2018/A1, dated 05.10.2018 and quash the same as illegal



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and consequently directing the second respondent to grant patta in favour of the petitioner for the land in Survey No.130/2B, measuring an extent of 49 ½ cents in West Ayakudi Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.M.P.Senthil

For R-1 & R-2 : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent in O.Mu.No.5974/2018/A1, dated 05.10.2018 and for a consequential direction to the second respondent to grant patta in favour of the petitioner with respect to the subject property measuring an extent of 49 ½ cents, situated at Ayakudi Village, Palani Taluk, Dindigul District.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing on behalf of respondent Nos.1 and 2

3. The case of the petitioner is that the subject property was originally comprising a larger extent of land which belonged to the father



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of the petitioner. The same was in possession and enjoyment of the family members of the petitioner. On 15.11.1980, the legal heirs of the father of the petitioner, namely, Ramakrishna Naidu entered into a partition and the partition deed was also registered as Document No.1430 of 1980. The petitioner claims that as per this partition deed, an extent of 59 ½ cents was allotted to the share of the petitioner. Thereby, the petitioner is claiming to be in possession and enjoyment of the same.

4. The further case of the petitioner is that out of 59 ½ cents, he sold an extent of 10 cents to one Palanisamy through a registered sale deed, dated, 09.02.2010. Thereby, the petitioner claimed to be in possession and enjoyment of the balance extent of 49 ½ cents in the property. The petitioner took steps to sub-divide the property and there was some resistance by the other co-owners. Left with no other option, the petitioner filed a suit in O.S.No.297 of 2011 on the file of the District Munsif Court, Palani, as against respondent Nos.3 to 7 seeking for the relief of declaration and permanent injunction. This suit was contested by the private respondents and ultimately, through Judgment and Decree, dated 07.08.2017, the suit was decreed in favour of the petitioner and



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thereby, the petitioner was declared to be the owner of the property measuring an extent of 49 ½ cents.

5. The petitioner made an application before the first respondent seeking for grant of patta for an extent of 49 ½ cents. Since the same was not acted upon, the petitioner filed W.P.(MD).No.7975 of 2018 before this Court for a direction to the first respondent to act upon the application and to grant patta. This Writ Petition was disposed of by an order, dated 12.04.2018. This Court directed the first respondent to consider the application after giving an opportunity to the concerned parties and pass final orders within a period of six weeks. Pursuant to this order, the impugned proceedings came to be issued by the first respondent and the same has been made the subject matter of challenge in the present Writ Petition.

6. On carefully going through the impugned order passed by the first respondent, it is seen that the first respondent has given a finding that there is an excess extent of 65 ¾ cents which is not accounted for and the same is not in line with the partition deed, dated 15.11.1980. Since the



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possession was not established by the petitioner for this extent of 65 ³/₄ cents and the Decree passed by the Civil Court was also silent in this regard, the first respondent refused to issue patta in favour of the petitioner.

7. In the considered view of this Court, there is no scope for the first respondent to deal with the application filed by the petitioner in the manner in which it has been dealt with in the present case. The first respondent is governed by the Revenue Standing Orders and the Revenue Standing Order-31(4) provides as follows:-

*“4. Compulsory transfers of title-
(i).Transfers to decree-holders - In cases of transfers of title of holdings in the name of decree-holders with reference to a decree of a Civil Court or of purchasers in auction sales held in execution of Civil Court decrees, change of registry may be ordered at once on the application of any of the parties to the suit or of the auction-purchasers and on the production of an authenticated copy of the decree or a certificate of sale, as the case may be, and a certificate of delivery of possession in pursuance thereof provided the transfer is from the*



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registered holder. When the transfer is from a person who is not the registered holder, notice should be given to the registered holder in the manner provided in paragraph 3(a) change of registry is ordered. In cases, however, in which a certificate of delivery of possession cannot be produced, as for instance, where on decree past possession is ceded without execution proceedings and the decree is apparently final, the case should be dealt with as provided in paragraph 3 (i) in regard to applications for change of registry presented only by one of the parties to the transfer.

(ii). Transfers under declaratory decrees:- In cases where transfer of registry is sought under a declaratory decree on which no execution can be taken out, i.e., where the decree merely declares the title to be vested in a particular person, so as to entitle him to registration, the Collector or other authorized officer may, on production of an authenticated copy of such decree, at once order the transfer of registry.”

8. There are broadly three classes of transfer of registry of holding. The first category is where the owners themselves through a



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voluntary action apply for transfer of patta. The second category is by virtue of Decree that is passed by the Civil Court or a revenue sale made by the competent authority. The third category is cases involving succession. Insofar as the second category of cases are concerned, the Revenue Standing Order itself states that it has to be compulsory transferred in line with the Decree passed by the competent Civil Court. In such cases, there is no scope for any enquiry or findings that can be given by the Revenue Authority. This is in view of the fact that the Revenue Authority cannot sit on judgment over a Judgment and Decree passed by the Civil Court and he is bound by the same. Therefore, the Revenue Authority has to necessarily issue patta in line with the Decree passed by the Civil Court and no alternative option has been given to the Revenue Authority in this regard.

9. In the instant case, there is a Decree for declaration and injunction granted in favour of the petitioner by the District Munsif Court, Palani in O.S.No.297 of 2011. On carefully going through the Decree, it is seen that the property has been properly described with all four boundaries for an extent of 49 ½ cents. Therefore, in a case of this nature, the Revenue Authority has to merely follow the Decree of the Civil Court and



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issue patta. Useful reference can be made to the Judgment of this Court in the case of ***R.Mohan Ranganathan and another Vs. The District Revenue Officer, Kancheepuram District, Kancheepuram and others*** in ***W.P.No.21450 of 200 and 15851 of 2009***, dated 21.12.2009. Useful reference can also be made to the Proviso to Section 14 of the Tamil Nadu Patta Passbook Act, 1983.

10. In the instant case, the property in question is a vacant land and hence, the possession will follow the title and the title has already been declared in favour of the petitioner by the competent Civil Court. Therefore, it is not necessary for the Revenue Authority to go in search of possession by virtue of the fact that the property in question is a vacant land.

11. In the light of the above discussion, the impugned order passed by the first respondent in O.Mu.No.5974/2018/A1, dated 05.10.2018 is un-sustainable and it requires the interference of this Court and accordingly, the same is set aside by this Court.



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12. In the result, this Writ Petition is allowed and there shall be a direction to the first respondent to deal with the application given by the petitioner on 26.02.2018 strictly in line with the Revenue Standing Order -31(4). The final order shall be passed by the first respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

03.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no

tsg

To

1.The Revenue Divisional Officer
/ Sub Collector,
Palani, Dindigul District.

2.The Tahsildar,
Palani Taluk,
Dindigul District.



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N.ANAND VENKATESH, J.

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