



W.P(MD)No.12414 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12414 of 2015

S.Kulanthaivelu

... Petitioner

Vs.

The District Revenue Officer,
Trichirappalli District,
Trichirappalli.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order dated 29.5.15 vide Na.Ka.No.A6/21641/12 passed by the respondent and quash the same as illegal, arbitrary and direct the respondent to issue patta in respect of the property situated in S.No.340/2 an extent of 72 cents in the name of the petitioner.

For Petitioner : Mr.A.Arun Prasad

For Respondent : Mr.S.RA.Ramachandran
Additional Government Pleader

ORDER

Heard both sides.



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2. The petitioner seeks issuance of patta for Survey No.340/2, Koothapar Village. His request was rejected. Questioning the same, the present writ petition came to be filed.

3. The petitioner's counsel points out that in the resettlement register prepared way back in the year 1927, the property had been shown as “Tharisu”. The sanction orders issued by the Executive Engineer, PWD granting permission in favour of the petitioner's vendor's father-in-law Arumugam to cultivate his land in Survey No.340/2 by taking water from uyyakondan channel had been enclosed. Arumugam's daughter-in-law Pappa Mariyayee entered into the sale agreement with the petitioner. Since it was not honoured, the petitioner filed O.S.No.474 of 2003 on the file of the First Additional District Court, Trichy seeking specific performance. It was decreed. The sale deed came to be executed in favour of the petitioner on 06.02.2009 by the Court in E.P.No.67 of 2004. Based on the said sale deed executed pursuant to the civil court's decree, the petitioner has sought patta. The learned counsel for the petitioner states that this request ought to have been accepted. He called upon this Court to set aside the impugned order and grant relief as sought for.



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4. The respondents filed counter affidavit and the learned Additional Government Pleader took me through its contents and pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is true that the property was originally classified as “Tharisu” in the SLR. It is beyond dispute that the land was classified as belonging to the Government. That is evident by the memorandum of the Government letter. During UDR, Survey No.340/2 was classified as “உய்ய கொண்டான் வாய்க்கால்”. As on date, Survey No.340/2 is classified as water body. Therefore, patta cannot be issued in respect of the water body. The order impugned in the writ petition is sustained.

7. At the same time, I cannot overlook the contention of the learned counsel for the petitioner that the Executive Engineer, PWD had permitted Arumugam petitioner's vendor's father-in-law to draw water from Uyyakondan channel to cultivate his land. It obviously means that the land belonging to the



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petitioner is distinct from the water body. If that be so, the petitioner is at liberty to file civil suit for establishing his title. If the petitioner seeks issuance of patta by invoking the discretion of the Government, then, obviously in view of the classification of Survey No.340/2 as a water body, I cannot grant any relief. If the case of the petitioner is that the land occupied by him is not a water body, then he has to go only before the jurisdictional civil Court.

8. Granting such liberty to the petitioner, the Writ Petition is dismissed.

No costs.

25.09.2023

Index : Yes / No
Internet : Yes/ No
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To

The District Revenue Officer,
Trichirappalli District,
Trichirappalli.



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G.R.SWAMINATHAN, J.

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