



W.P(MD).No. 4818 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.4818 of 2014

and

M.P(MD) No.1 of 2014

K.Saravanan

..... Petitioner

- Vs-

1. The District Collector,
Karur District,
Karur.
2. The District Revenue Officer,
Karur District,
Karur.
3. The Revenue Divisional Officer,
Kulithalai,
Karur District.
4. The Tahsildar,
Kulithalai Taluk,
Kulithalai,
Karur District.
5. The Block Development Officer,
Thogamalai Panchayat Union,
Kulithalai Taluk, Karur District.



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6. The Thogamalai Panchayat,
Represented by its President,
Thogamalai Village,
Kulithalai Taluk,
Karur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.C3/8994/2013, dated 20.02.2014 passed by the first respondent and quash the same and consequently directing the respondents 1 and 6 to hand over the 27 cents of land in Survey No.221/1, Thogamalai Village, Kulithalai Taluk, Karur District as set out in the report bearing Na.Ka.No.A1/701/2013, dated 08.05.2013 submitted by the third respondent.

For Petitioner	: Mr.T.Antony Arul Raj
For Respondents	: Mr.Veera Kathiravan Additional Advocate General – III Assisted by Mrs.D.Farjana Ghoushia Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent rejecting the claim of the petitioner for grant of patta in his name in respect of Survey No.221/1, to an extent of 27 cents.



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2. Heard Mr.T.Antony Arul Raj, learned counsel appearing for the petitioner and Mr.Veera Kathiravan, learned Additional Advocate General -III Assisted by Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that an extent of 54 cents in S.No.221/1, Thogamalai Village, Kulithalai Taluk, Karur District, originally belonged to the grandfather of the petitioner and after his demise, the same was inherited by his father and his paternal uncle, and they were possessing and enjoying the property. While that being so, without the knowledge of the petitioner's father, the paternal uncle of the petitioner had gifted the property to the Thogamalai Panchayat. The revenue records still reflect the names of the petitioner's father and the paternal uncle. He would also submit that the land belonging to the petitioner is still kept vacant. On an enquiry conducted by the third respondent, the claim made by the petitioner was accepted and necessary recommendation was also made to the first respondent. However, the first respondent/ the District Collector refused to grant patta stating that in the middle of the land in



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question there is a bus stand and directed the petitioner to approach the civil Court seeking remedy. The learned counsel for the petitioner would further submit that the order passed by the District Collector is without appreciating real facts. Hence, he prays to set aside the impugned order and remit the matter back to the first respondent for fresh consideration.

4. Countering his arguments, the learned Additional Advocate General would submit that the entire property in question was gifted by the paternal uncle of the Petitioner to the local panchayat in the year 1983 itself. The panchayat had constructed compound wall and a bus-stand has been functioning from the year 1983. It is also contended that the petitioner or his father had not objected when the land has been used as bus stand and a shopping complex was constructed therein. He would further submit that the writ petition is not maintainable and the petitioner has to approach the the civil Court as held by that first respondent. Hence, he seeks dismissal of the writ petition.



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5. I have considered the rival submissions made by the learned counsel appearing on either side.

6. At the outset, this writ petition has been filed seeking transfer of patta in the name of the petitioner. However, the respondents claim that the lands have been handed over by the petitioner's paternal uncle by way of gift deed and therefore, the petitioner has no right to make such claim.

7. The contrary factual disputes have been raised by the learned counsel appearing on either side. Therefore, I do not propose to venture into the disputed question raised by the parties sitting under Article 226 of the Constitution of India. Hence, liberty is granted to the petitioner to approach the concerned civil Court seeking appropriate remedy to redressal grievances.



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8. With the above said liberty, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

16.02.2023

NCC: Yes / No

Index : Yes / No

Internet : Yes / No

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To

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K.KUMARESH BABU, J.

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Order made in
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