
(2014) 08 MAD CK 0218

In the Madras High Court

Case No : W.P(MD) No. 7243 of 2014 and M.P.(MD). No. 1 of 2014

E. Sangaiah Poosari

APPELLANT

Vs

The District Collector, Madurai District

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Citation : (2014) 08 MAD CK 0218

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T.S. Sivagnanam, J.—The petitioner seeks for issuance of a writ of Certiorarified Mandamus to quash the order passed by the second respondent, dated 05.12.2013. By the said order, the petitioner's request for issuance of patta in the name of Arulmigu Sangaiah Koil in respect of the land in old S.F.No.22/4A, measuring 33 cents, was rejected. By subsequent orders, dated 05.12.2013 and 30.12.2013, the second respondent himself has stated that the second respondent would be able to give patta in respect of three cents alone and not for the entire extent.

2. Counter affidavit has been filed by the second respondent reiterating the stand taken in the impugned order, but in paragraph No. 6 of the counter affidavit it is submitted that the petitioner has been performing pooja as poojari in the temple and one Selvam, S/o.Muthaiah has been protecting the temple as guard of that temple. The people belonging to Hindu Paraiyan caste has been worshiping the deity for several generations. Further there is an allegation that the petitioner has put up shops at the vacant land around the temple and he has been collecting rents from them and this activity has been objected to by the people belonging to that particular community. Further it is stated that the encroachments made by the petitioner has also been removed through appropriate forum by the said community people. It is further stated in the counter affidavit that after collecting the entire details and ascertaining the entire facts, the petitioner's representation would be considered. It is further stated

that the second respondent is empowered to issue patta only to an extent of three cents, after the implementation of SLR scheme.

3. In the light of the stand taken by the second respondent, it is clear that the petitioner has been performing the pooja in the temple. The request made by the petitioner for the grant of patta is not for a patta in his individual name, but in the name of the temple. Thus, the second respondent can consider the same with a specific condition that the petitioner cannot have any individual right over the said land, merely because patta granted in the name of the temple or he is continuously performing pooja. Further more, the petitioner has no jurisdiction to encroach into the temple land. He cannot put up any shop. He cannot collect any rent and his only duty shall be to perform pooja. Similarly, the guard shall continue to duties of a guard alone. If the second respondent has no jurisdiction to grant patta for more than an extent of 3 cents, he shall conduct an enquiry and submit the papers to the competent authority for appropriate decision. Therefore, the impugned order rejecting the petitioner's request in toto deserves to be set aside.

4. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded back to the second respondent who shall take enquiry into the matter, after hearing the petitioner and other objectors, if any and thereafter, pass a speaking order on merits and in accordance with law. If the second respondent is satisfied with the claim made on behalf of the temple, in respect of entire extent, then the second respondent shall submit a report to the competent authority, who shall do the needful in the matter as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No costs.