
(2011) 03 MAD CK 0089
In the Madras High Court
Case No : Writ Petition (MD) No. 3076 of 2011

K. Karuppayee

APPELLANT

Vs

The Commissioner, The Executive Engineer, Tamilnadu Slum
Clearance Board and The Assistant Director, District Land
Record and Survey Department

RESPONDENT

Date of Decision : 21-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0089

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Advocate : R. Ramasamy, for the Appellant; M. Jothi Basu, for 1st Respondent and K. Balasubramanian, Additional Government Pleader for Respondents 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

B. Rajendran, J.—The Petitioner would contend that the Petitioner was living in the house up to 2001 and after the death of her husband,

she went along with her sons and at that point of time, her house was completely demolished and they were prepared to sell the property. Since it

was occupied by the local people in the form of small hut, she requested the third Respondent to survey her land. But the third Respondent refused

to survey the land as in the survey register her name does not find place and only it is found place in the name of Tamil Nadu Slum Clearance

Board. Now, she would contend that the second Respondent in a reply to her representation stated that the land does not actually belong to the

Housing Board. Therefore, the entry made in the town survey register is wrong. Hence, she filed a suit in O.S. No. 703 of 2008 before the District

Munsif Court, Madurai against one Marimuthu, a third party for injunction and she did not obtain injunction. Thereafter, she filed an application

before the Tahsildar to grant patta in her name that was also refused by order dated 24.01.2009. She would also contend that the people occupied

her land and constructed buildings as the Town survey register stands in the name of the second Respondent. Subsequently, she filed a petition

before the Revenue Divisional Officer who in turn has also closed the petition not to grant patta in her name and the first Respondent has no

authority to issue work order. Aggrieved over the same, earlier, the Petitioner filed a writ petition in W.P.(MD) No. 14697 of 2010 and the same

was dismissed with liberty to file an appeal, if she is so advised. The prayer in the above writ petition is as follows:

Writ of Certiorari and Mandamus to call for the entire records pertaining to the order issued by the third Respondent in Na. Ga. No.

11250/2009/m3, dated 24.12.2009 and quash the same and direct to issue patta in the name of the Petitioner for S. No. 68 in Madakulam

Village, Madurai by directing the 6th Respondent to enter the Petitioner's name in the above mentioned schedule property in the Town Survey

Register and further direct the fourth Respondent to survey the schedule property and hand over the possession to the Petitioner

2. Now, she would contend that she is in need of patta because it is house plot, the town survey register to be changed in her name and therefore,

she made a representation to the Respondent and she wants mandamus as stated supra.

3. The prayer in the above said writ petition is also inclusive for a direction to enter the Petitioner's name in the town survey register and this Court

by order dated 22.12.2010 has observed as follows:

2. As against the order passed by the Tahsildar, a statutory appeal is provided before the Revenue Divisional Officer as per Section 12 of the

Tamil Nadu Patta Pass-Book Act, 1983, and thereafter, aggrieved person can file a revision and after the disposal of the revision, aggrieved

person can approach the Competent Civil Court seeking declaration of his title over the property in question. This is the position as on date,

regarding patta proceedings. However, without availing statutory remedy available, the Petitioner straight-away approached this Court, and hence,

the Writ Petition filed challenging the order of the Tahsildar, cannot be entertained.

3. Similar view was taken by me in the case of K.V. Sathyanarayanan and Ors. v. The District Revenue Officer, Thiruvallur District reported in

2008 (4) TLNJ 602 wherein, I have followed a judgment of a Division Bench of this Court in Kuppuswami Nainar Vs. The District Revenue

Officer and Others, , as well as the Judgments of the Supreme Court in

(i) Rourkela Shramik Sangh Vs. Steel Authority of India Ltd. and Another, ;

(ii) Dwarka Prasad Agarwal (D) by LRs. and Another Vs. B.D. Agarwal and Others, ,

(iii) Himmat Singh Vs. State of Haryana and Others, and

(iv) Food Corporation of India v. Harmesh Chand reported in 2007 (7) MLJ 687;

4. Applying the said ratio to the facts of the present case, the Writ Petition filed challenging the order of the Tahsildar, cannot be entertained, and

therefore, the Writ Petition is dismissed. However, liberty is granted to the Petitioner to file an appeal, if he is so advised. No costs. Consequently,

connected Miscellaneous Petition is closed.

4. In fact, the said writ petition has also been filed to quash the order of the Tahsildar refusing to grant patta. Now, conveniently, she has not

preferred any appeal as against the claim of the Petitioner to grant of patta. In fact, she has also made representation to the Revenue Divisional

Officer, the same was also rejected. Now in a different way, the very same prayer is modified as to the one to change her name in the town survey

register. As she could not achieve in the earlier writ petition, the Petitioner is now seeking under the guise of direction to the Respondents to

change her name in the town survey register. Therefore, the Petitioner has not made out any case in the present writ petition and having failed in the

earlier attempt, this is nothing but a second round of litigation. Hence, the writ petition is liable to be dismissed. Accordingly, the writ petition is

dismissed. No costs.