

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. No.29005 of 2014

S.Yamini

...Petitioner

v.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Special Tahsildar,
Town Settlement Scheme,
Revenue Follow up Works,
Chengalpattu Taluk,
Kancheepuram District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to grant patta in the name of the petitioner for the lands in her continuous peaceful possession and enjoyment of the land measuring an extent of 62 ½ cents 27271 sq.ft. in Survey No.58/1, Block NO.4, Ward No.1 in No.258, Guntur Village, Chengalpattu Taluk, Kancheepuram District within time frame granted by this Court.

For petitioner : Mr.K.Thangarasu

For respondents : Mr.V.Jayaprakash Narayanan,
Spl.G.P.

ORDER

Heard Mr.K.Thangarasu, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for respondents.

2.The petitioner seeks for a direction upon the respondents to grant patta in the name of the petitioner for the land measuring an extent of 62 ½ cents 27271 sq.ft. in Survey No.58/1, Block No.4, Ward No.1 in No.258, Guntur Village, Chengalpattu Taluk, Kancheepuram District, which was in continuous possession and enjoyment of the petitioner.

3.In the affidavit filed in support of the petition, it is stated that the petitioner has acquired the title over the property, pursuant to the Will dated 09.04.1984, which was executed in favour of the petitioner's father, granting life estate and she being the only daughter of the testator, she was in continuous possession and enjoyment of the property. In support of the contention of the petitioner, she has filed photostat copy of the Will, legal heir certificate, death certificate and a copy of the representation dated 06.09.2014. With these records, petitioner claims for grant of patta.

4.Counter affidavit has been filed by the respondents wherein it has been stated that the land in Town Survey No.58-I is under the control of Chengalpattu Municipality and a community hall constructed by the authorities of Municipality in a part of the land is in existence as on date and the petitioner has not at all done any cultivable activities in respect of such Survey Number and the land in question has not been under the possession and enjoyment of the petitioner and the averments made in the petitioner are absolutely false. Further it is stated that Town Survey No.58/1 is a Government Poramboke land and the claim for patta based upon an un-registered and un-stamped will, is absolutely without any merits. Further it is stated that occupation and possession of the land is with the Municipality for all the years and the land is for utilisation by the Municipality and the petitioner has made a false averment. Further it is submitted that the question of issuance of patta in respect of Government land does not arise.

5.A copy of the Town Survey Field Register has been produced by the respondents from which it is seen that Survey No.58 Sub division 1 has been classified as Municipality land measuring an extent of 2727 sq.ft./Hindu Choultry and Sub division 2 has been classified as Poramboke land measuring an extent of 7381 sq.ft./Hospital compound. Further it is seen from the register, it has been classified as Hindu Choultry and Hospital Compound respectively in the Survey Numbers and the same are shown as Government Poromoboke land.

6.In such circumstances, question of granting patta based on an un-registered and un-stamped Will, does not arise. More so, when the land as on date is classified as poromoboke land, patta cannot be

granted in favour of the petitioner. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vga

To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Special Tahsildar,
Town Settlement Scheme,
Revenue Follow up Works,
Chengalpattu Taluk,
Kancheepuram District.

1 CC to Mr.K.Thangarasu, Advocate SR.No. 9211

1 CC to the Government Pleader, SR.No. 9153

MP (CO)
PSI (09.03.2015)

W.P. No.29005 of 2014

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