



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD) .No.14099 of 2015

and

M.P(MD)No.2 of 2015

1.Velusamy
2.Ramar
3.Thangapandi

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Tenkasi.

2.Duraipandi

... Respondents

Prayer: This Writ Petition has been filed praying for a Writ of Mandamus directing the first respondent herein to consider the petitioner's representation, dated 09.05.2015 and depart the enquiry in patta proceedings in respect of the lands in S.Nos.356 and 357 Anaitha Perumal Nadanur Village, Alankulam Taluk, Tirunelveli District pending disposal of the civil dispute of ownership in S.A.(MD)No.727 of 2009 before this Honourable Court in-view of Rule 4(4) of the Tamil Nadu Patta Pass Book Act & Rules.

For petitioner : Mr.V.Meenakshi Sundaram

For Respondents : Mr.S.Kumar

Additional Government Pleader

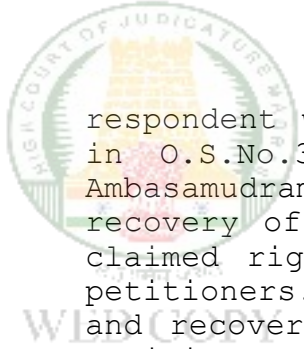
ORDER

This Writ Petition has been filed praying for a Writ of Mandamus directing the first respondent herein to consider the petitioner's representation, dated 09.05.2015 and depart the enquiry in patta proceedings in respect of the lands in S.Nos.356 and 357 Anaitha Perumal Nadanur Village, Alankulam Taluk, Tirunelveli District pending disposal of the civil dispute of ownership in S.A.(MD)No.727 of 2009 before this Honourable Court in-view of Rule 4(4) of the Tamil Nadu Patta Pass Book Act & Rules.

2. Mr.S.Kumar, learned Additional Government Pleader takes notice for R-1.

3. By consent, this Writ Petition itself is taken up final disposal.

4. The case of the petitioner is that the petitioners are brothers and they are the joint owners of the land involved in the issue. They are the owners of the land in Survey No.356, 357/1 in Anaitha Perumal Nadanur Village, Alankulam Taluk, Tirunelveli District. The second



respondent without any valid title in the above said lands filed a suit in O.S.No.321 of 2002 before the Additional District Munsif Court, Ambasamudram, against the petitioners for the relief of declaration and recovery of possession. In the said suit, the second respondent herein claimed right through his father. The said suit was contested by the petitioners. However, the trial Court decreed the suit for declaration and recovery of possession on 26.02.2007. Aggrieved over the same, the petitioners preferred A.S.No.61 of 2007 before the Sub-Court, Ambasamudram. But the first appellate Court dismissed the appeal by judgment and decree, dated 28.04.2008. As against the concurrent judgment and decree, the petitioners preferred a second appeal in S.A(MD) No.727 of 2009 before this Court. In the said second appeal, this Court has granted interim stay of the operation of the decree for declaration and recovery of possession in M.P(MD).No.2 of 2009 and the said second appeal is pending before this Court. Under such circumstances, the second respondent with an intention to grab the property, made a representation, dated 29.02.2012, to the first respondent with a prayer to change the patta in his name. The case of the petitioners is that the second respondent cannot make any application for change of entry in the patta when civil dispute in respect of the ownership of the lands in issue is pending before this Court in view of Rule 4(4) of the Tamil Nadu Patta Pass Book Act & Rules. Therefore, the petitioners made a representation before the first respondent on 09.05.2015. But the same was not considered so far and hence, the petitioner has come forward with this Writ Petition for the above stated relief.

5. Considering the limited scope of the prayer made in this Writ Petition, without going into the merits of the matter, this Court directs the first respondent to consider the representation of the petitioners, dated 09.05.2015, and pass orders on merits and in accordance with law, after hearing all the necessary parties, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter and it is for the first respondent to pass orders purely on merits.

With the above direction, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Pm

Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

The Revenue Divisional Officer, Revenue Divisional Office, Tenkasi.
1CC to Mr.D.Nallathambi, Advocate, SR.No.44744.
1CC to The Special Government Pleader, Advocate, SR.No.45034

W.P (MD) .No.14099 of 2015
07.08.2015

2P/4C

<https://hservices.revenue.tn.gov.in/hservices/>
26.08.2015.