

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.11850 of 2016

Chilakkamma

.. Petitioner

Vs.

1. The Tahsildar,
Pallipet Taluk,
Pallipet, Tiruvallur District.

2. Ravi Naidu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to issue patta based on the representation, dated 17.03.2016 sent by the petitioner with regard to Survey No.47/1, 47/2, 58/2 and 69/1A situated at Edhalakuppam Village, Pallipet Taluk, Tiruvallur District.

For Petitioner : Mr.P.Krishnan

For Respondents : Mr.R.A.S.Senthilvel,
Addl.Govt.Pleader for R-1

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to issue patta based on the representation, dated 17.03.2016 sent by the petitioner with regard to Survey No.47/1, 47/2, 58/2 and 69/1A situated at Edhalakuppam Village, Pallipet Taluk, Tiruvallur District.

2. It is the case of the petitioner that her father, namely K.Lakshmi Naidu inherited the ancestral property by an unregistered Deed of Koorchit, dated 10.07.1986 executed between his brothers, namely Krishnama Naidu and Rama Naidu and in the said Koorchit, 'A' schedule property was allotted to Rama Naidu, 'B' schedule property was allotted to the petitioner's father and 'C' schedule property was allotted to his younger brother

Krishnama Naidu. From the date of partition, the properties were enjoyed by them with their respective schedules. It is further stated by the petitioner that Mr.Rama Naidu disposed of his share of property by registered Deeds of Sale, dated 01.04.1991 and 02.04.1991 respectively. The petitioner's father was in possession and enjoyment of the property and he died leaving the petitioner, Lakshmi, Geetha, Venkatesalu and K.Subbamma as his legal heirs. After the demise of the petitioner's father, the legal heirs are in joint possession and enjoyment of the property bearing S.Nos.47/1, 47/2 and 58/2, having an extent of 3 acres 5 cents, Well with 7.5 HP electric motor pump set and house in Survey No.69/1A situated at Edhalakuppam Village, Pallipet Taluk, Tiruvallur District.

3. It is the further case of the petitioner that she applied for patta before the first respondent in respect of the above said property. As the patta stands in the name of the second respondent's father, namely Rama Naidu bearing Patta Nos.440 and 763 situated at Edhalakuppam Village, the first respondent insisted the petitioner to get an order from Civil Court to declare that the said property belongs to the petitioner and other legal heirs. Subsequently, the petitioner and other legal heirs of the petitioner's late father, filed a suit in O.S.No.67 of 2014 before the Sub-Court, Tiruttani, for declaration to declare that the property belongs to them and for permanent injunction that the second respondent and the legal heirs of late Rama Naidu should not interfere with their peaceful possession and enjoyment of the property. The said suit was decreed ex-parte on 27.04.2015, against which, it is stated that no appeal has been preferred so far.

4. The petitioner further stated that along with a copy of the above said decree, she applied before the first respondent for grant of patta in favour of herself, her sisters, brother and mother. In spite of the legal opinion given by the Government Pleader, Tiruttani, stating that there is no prohibition to transfer the patta in their names, no orders are passed by the first respondent. It is further stated by the petitioner that as per the Revenue Standing Order 31(2), the first respondent ought to have granted patta in favour of them based on the Civil Court's decree. It is the grievance of the petitioner that in spite of the fact that the appeal having not been filed as against the said decree of the Civil Court, the first respondent is delaying to grant patta. Hence, the petitioner sent a representation, dated 17.03.2016 to the first respondent and even though the said representation was received, no action is taken by the first respondent. Hence, the petitioner has filed this Writ Petition for the above relief.

5. Heard both sides. In view of the order that is going to be passed in this Writ Petition, it is not necessary to issue notice to the second respondent.

6. Taking into consideration the above factual aspects of the matter, without going into the merits of the case, this Court directs the first respondent to consider the said representation, dated 17.03.2016 given by the petitioner, conduct enquiry, give an opportunity of personal hearing to the petitioner and other necessary parties including the second respondent herein, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of eight 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 claim of the petitioner and it is for the first respondent to decide the same.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

cs

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

Copy to

The Tahsildar,
Pallipet Taluk,
Pallipet, Tiruvallur District.

+ 1 cc to The Govt.Pleader, High Court, Mds. Sr 20055

+ 1 cc to Mr.P.Krishnan, Advocate Sr 20460

KR/25/4/16

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