

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.12251 of 2016

R.Koushik

... Petitioner

vs.

1.The Collector,
Office of the Collectorate,
Singaravelar Maligai,
Rajaji Salai, Chennai-1.

2.The Tahsildar,
Triplicane Mylapore Taluk,
Greenways Road,
Chennai-28.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to dispose of the application dated 14.8.2015 submitted by the petitioner under Ref: TR/1263/15 dated 17.8.2015 in accordance with law by issuing patta in favour of the petitioner in the light of the representation of the petitioner dated 10.2.2016.

For Petitioner : Mr.Rathina Asohan

For Respondents : Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to dispose of the application submitted by him on 14.8.2015 under Ref: TR/1263/15 dated 17.8.2015 in accordance with law by issuing patta in his favour in the light of his representation dated 10.2.2016.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is the absolute owner of the house property consisting of land measuring to an extent of 1 ground 47 sq.ft. comprised in R.S.No.4145 and 4131 part (as per patta R.S.No.4131/29), Block No.90, Mylapore Village, Triplicane - Mylapore Taluk, Chennai, together with a house property bearing Plot No.22-B, New Door No.15 (Old No.6), Robertson Land (also known as Loop Street), Mandavellipakkam, Chennai-28. He acquired the said property under a deed of settlement dated 30.3.2015 executed by his father P.Radhakrishnan, which was duly registered as document No.983 of 2015 in the office of the Sub Registrar, Mylapore, Chennai.

(b) Originally, Plot No.22-B measuring to an extent of 1 ground 1209 sq.ft., then comprised in R.S.No.4145 and 4131 part, Mylapore Village, Triplicane - Mylapore Taluk, Chennai, together with the house building thereon, was purchased by late S.Arunachalam, the grandfather of the petitioner's father. After completion of all payments, the Tamil Nadu Housing Board executed a sale deed dated 13.12.1974 in favour of the said late S.Arunachalam. The said S.Arunachalam died intestate on 8.2.1982 leaving behind his wife Kamatchi Ammal and their only son A.Pattabhiraman, the grandfather of the petitioner to succeed the said property. Subsequently, Kamatchi Ammal also died intestate on 14.8.1982 leaving her only son A.Pattabhiraman to succeed the said property.

(c) The said A.Pattabhiraman and his wife have two children viz., Vijayalakshmi and P.Radhakrishnan, the petitioner's father. The said A.Pattabhiraman divided the said property into two parts and executed two separate settlement deeds in favour of his children, pursuant to which, his children had been put to absolute possession of their respective properties. Now, it appears that at the instigation of his daughter, the said A.Pattabhiraman chose to execute a deed of revocation of settlement dated 1.7.2011 unilaterally. Hence, the petitioner's father filed a civil suit in O.S.No.215 of 2012 on the file of the XIII Assistant City Civil Court, Chennai challenging the so called deed of revocation of settlement dated 1.7.2011. After trial, a judgment and decree was passed in the said suit by declaring that the deed of revocation of settlement dated 1.7.2011 is null and void and the same is not binding on the petitioner's father. However, in the said judgment, the learned Judge has also held that the said A.Pattabhiraman, the defendant therein and his wife are entitled to reside in the suit premises and receive the rents from the tenant till their life time and the petitioner's father shall not cause any disturbance or interference to them.

(d) The said A.Pattabhiraman has not preferred any appeal against the said judgment and thus, the said judgment has become final. Subsequently, the petitioner's father P.Radhakrishnan settled the said property in favour of the petitioner by executing a deed of settlement dated 30.3.2015 registered as document No.983 of 2015 and consequently, the petitioner was put into legal possession of the said property. Based on the said deed of settlement dated 30.3.2015, the petitioner submitted an application dated 14.8.2015 to the second respondent requesting him to effect change of name in the revenue records. The petitioner has also submitted all the required supporting documents along with the application. The second respondent conducted physical survey of the property and completed the requisite procedural formalities in the month of September 2015 itself. However, the second respondent has not effected name change. Hence, finally, the petitioner made a representation dated 10.2.2016 to the second respondent. But, the same was also not considered. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to consider the application dated 14.8.2015 submitted by the petitioner under Ref: TR/1263/15 dated 17.8.2015 and dispose of the same, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, 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 with regard to the claim made by the petitioner and it is for the second respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Collector,
Office of the Collectorate,
Singaravelar Maligai,
Rajaji Salai, Chennai-1.

2.The Tahsildar,
Triplicane Mylapore Taluk,
Greenways Road,
Chennai-28.

+1cc to Mr.Rathina Asohan, Advocate, S.R.No.20637

+1cc to the Government Pleader, S.R.No.20971

SCD(CO)
EU(20/04/2016

W.P.No.12251 of 2016



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