

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.13832 of 2016

S.Sivakumar

... Petitioner

vs.

The Tahsildar,
Arakkonam Taluk,
Vellore District.

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to direct the respondent to pass orders on the petitioner's application dated 03.08.2015 seeking for subdivision and transfer of patta in respect of the petitioner's property bearing plot no.50 comprised in S.No.524/3B Green Park Avenue, Vadamambakkam Village, Arakkonam Taluk in the light of the judgment of this court made in A.S.No.108 of 1991 dated 26.11.2001.

For Petitioner : Mrs.S.Gowri Shankar

For Respondent : Mr.S.Navaneethan, AGP

ORDER

The petitioner has filed the present writ petition for a Mandamus, directing the respondent to pass orders on his application dated 03.08.2015 seeking subdivision and transfer of patta in respect of his property bearing plot no.50 comprised in S.No.524/3B Green Park Avenue, Vadamambakkam Village, Arakkonam Taluk in the light of the judgment of this Court made in A.S.No.108 of 1991 dated 26.11.2001.

2. It is the case of the petitioner that he is the owner of the plot bearing No.50 measuring to an extent of 1800 sq.ft. forming part of larger extent of 1.75 acres, comprised in S.No.524/3B Vadamambakkam Village, Arakkonam Taluk known as Green Park Avenue by way of purchase under a registered document bearing No.9566 of 2010 dated 12.11.2010 on the file of the Joint Sub Registrar No.2, Arakkonam. After the purchase, he had approached the respondent on several occasions for sub division of his plot and for issuance of separate patta. However, his request was not considered by the respondent.

3. It is the further case of the petitioner that his predecessor-in-title - Mohamed Iqbal had already filed a suit in O.S.No.546 of 1981 before the District Munsif Court, Sholinghur against the State of Tamil Nadu represented by the District Collector and the Tahsildar, for declaration of his title and for permanent injunction in respect of his property comprised in S.Nos.524/3A, 524/3B and 524/3C measuring to an extent of 1.82 acres, 1.75 acres and 1.82 acres respectively, situated at Vadambakkam Village, Arakkonam Taluk. The said suit was dismissed, against which, an appeal in A.S.No.108 of 1991 was filed before this Court. The said appeal suit was allowed, by a judgment and decree dated 26.11.2001. Challenging the same, no further appeal was filed by the Government. Therefore, the judgment made in A.S.No.108 of 1991 had attained finality. Pursuant to the same, patta was granted in favour of the petitioner's predecessor-in title, who, on the strength of the same, developed the property by converting it as plots and sold the same as house sites. One of the said plots bearing Plot No.50 was purchased by one D.Sivakumar under a registered document dated 08.06.2006 bearing Document No.1589 of 2006. Thereafter, the said plot was purchased by the petitioner in the year 2010.

4. Now, the grievance of the petitioner is that he made an application dated 03.08.2015 to the respondent seeking sub division of his plot no.50 and issuance of separate patta in his name. On receipt of the same, he was called upon to appear for enquiry on 28.08.2015, on which date, he was instructed to produce a court order with regard to his request, despite the fact that the respondent had already issued individual patta in respect of the very same property, which was subject matter of A.S.No.108 of 1991 dated 26.11.2001. Therefore, the petitioner has no other option except to approach this Court with the present writ petition for the above stated relief.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondent.

6. Considering the facts and circumstances of the case, this Court directs the respondent to consider the petitioner's application dated 03.08.2015, by affording an opportunity of personal hearing to the petitioner and pass appropriate orders, with regard to subdivision of the plot No.50 comprised in S.No.524/3B, Green Park Avenue, Vadambakkam Village, Arakkonam Taluk. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the respondent to pass appropriate orders purely on merits and in accordance with law and also in the light of the judgment dated 26/11/2001 made in A.S.No.108 of 1991 passed by this Court. The entire exercise shall be

completed within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

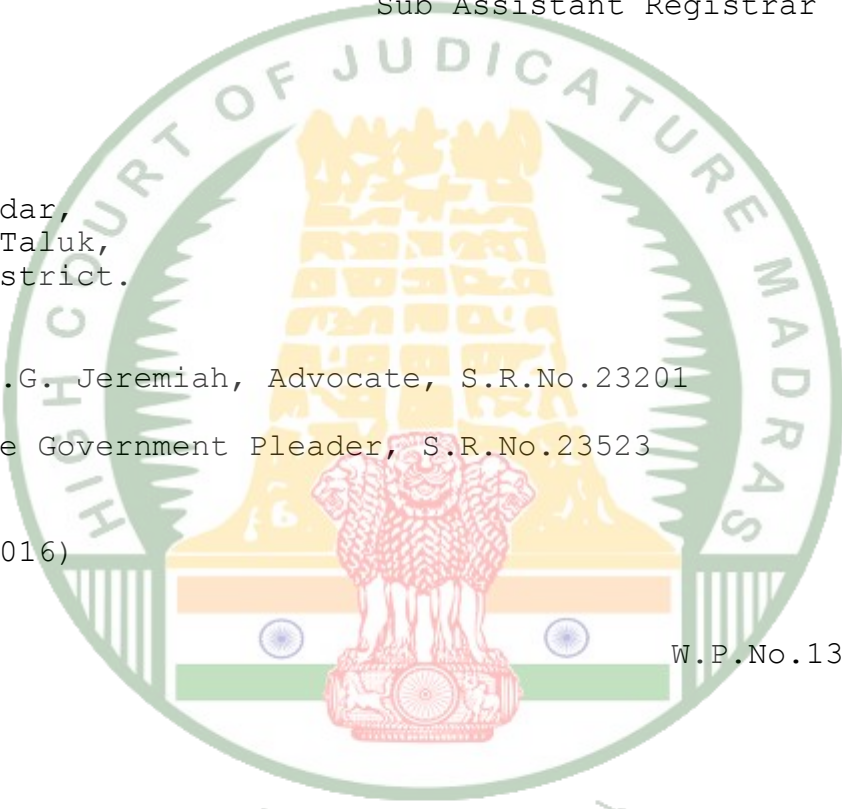
The Tahsildar,
Arakkonam Taluk,
Vellore District.

+1cc to Mr.G. Jeremiah, Advocate, S.R.No.23201

+1cc to the Government Pleader, S.R.No.23523

PUR(CO)
EU(03/06/2016)

W.P.No.13832 of 2016



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