

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.13972 of 2016

P.Selvi @ Selvakumari

... Petitioner

vs.

The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent to pass appropriate orders on the application submitted by the petitioner dated 11.1.2016 for transfer of patta in favour of the petitioner in respect of the lands comprised in S.No.106/8, Bommidi Village, Pappireddipatti Taluk, Dharmapuri District, based on the sale deed in Doc.No.669 of 1995 dated 5.6.1995 on the file of Sub Registrar, Pappireddipatti and the subsequent orders passed in O.S.No.117 of 2007 dated 16.3.2007 on the file of the District Munsif Court, Harur.

For Petitioner : Mr.G.Sankaran
For Respondent : Mrs.M.E.Rani Selvam,
Addl. 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 respondent to pass appropriate orders on the application dated 11.1.2016 submitted by her for transfer of patta in her favour in respect of the lands comprised in S.No.106/8, Bommidi Village, Pappireddipatti Taluk, Dharmapuri District, based on the sale deed in Doc.No.669

of 1995 dated 5.6.1995 on the file of Sub Registrar, Pappireddipatti and the subsequent orders passed in O.S.No.117 of 2007 dated 16.3.2007 on the file of the District Munsif Court, Harur.

3. It is the case of the petitioner that originally the land in Survey No.106/8, Bommidi Village, Pappireddipatti Taluk, Dharmapuri District belonged to one C.Kulandai, son of Chinnapillai Gounder and the same was transferred in favour of the petitioner through a registered sale deed dated 5.6.1995 vide document No.669 of 1995. While executing the sale deed, the survey number was noted as 1/1, Vellalapatti Village since the subject property is located in the border of Bommidi Village, adjoining to Chinnalapatti Village, whereas the property subjected to sale, has been correctly identified by the boundaries in the sale deed. Since one Rajendran and Prakasam created problem by claiming right over the said property, the petitioner was constrained to file a civil suit on the file of the District Munsif Court, Harur, in O.S.No.117 of 2007 seeking declaration and permanent injunction as against the said Rajendran and Prakasam. The said suit was decreed in favour of the petitioner by observing that the survey number in the sale deed has been wrongly noted as 1/1, Vellalapatti Village instead of 106/8 Bommidi Village, whereas the four boundaries have been properly identified in the sale deed. In these circumstances, the petitioner made an application dated 11.1.2016 to the respondent to issue patta in her favour in respect of the land in S.No.106/8, Bommidi Village. While so, it was found that one Mullai claiming to be the purchaser of the said land from Rajendran, has filed a suit as against the petitioner in O.S.No.2 of 2008 before the District Munsif Court, Pappireddipatti. However, no interim order was passed in the said suit. Hence, there is no impediment for the respondent to consider the application of the petitioner for transfer of patta, based on the declaratory right granted by the civil Court in O.S.No.117 of 2007. But, till date, the respondent has not considered the application of the petitioner. 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 Additional Government Pleader, who has taken notice on behalf of the respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondent to consider the application of the petitioner dated 11.1.2016 seeking transfer of patta in her favour in respect of the lands comprised in S.No.106/8, Bommidi Village, Pappireddipatti Taluk, Dharmapuri District, based on the sale deed in Doc.No.669 of 1995 dated 5.6.1995 on the file

of Sub Registrar, Pappireddipatti and the subsequent orders passed in O.S.No.117 of 2007 dated 16.3.2007 on the file of the District Munsif Court, Harur and pass appropriate orders/ take appropriate action, 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 twelve 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 merits of the claim projected by the petitioner and it is for the 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sbi

To

The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District.

+1 cc to Mr.G.Sankaran Advocate sr.24005
+1 cc to Government Pleader sr.23831

W.P.No.13972 of 2016

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