

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No. 32795 of 2015

G. Ezhilarasi

... Petitioner

vs.

1 The Revenue Divisional Officer
Chengalpattu.

2 The Tahsildar
Thiruporur
Kancheepuram District.

3 The Head Quarters Deputy Tahsildar
Thiruporur
Kancheepuram District.

4 Tmt. Saraswathy

5. R. Ravikumar

6 Sasirekha

7 K.R. Gopi

8 Shridar

9 Kala

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the second and third respondents to consider the representations of the petitioner dated 10.02.2014 and 03.09.2015 regarding setting aside the patta granted to respondents 4 to 9 in Patta No. 247 and pass further orders.

For Petitioner : Mr. S. Selvathirumurugan

For Respondents : Mr. V. Jayaprakash Narayanan
Special Govt. Pleader for R1 to R3

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second and third respondents to consider the representations of the petitioner

dated 10.02.2014 and 03.09.2015, regarding setting aside the patta granted to respondents 4 to 9 in Patta No. 247.

2. It is the case of the petitioner that her husband, namely, G. Gnanasekaran, is the absolute owner of 17½ cents of land comprised in S. No. 114/1 situated at 132, Karumbakkam Village via Kancheepuram District. The said property was purchased by her father-in-law Mr. Govindaraj, from one Mr. Rangaswamy Iyengar for a valid sale consideration, during the year 1951. Immediately after receiving the sale consideration, Mr. Rangaswamy Iyengar had put Mr. Govindaraj, in absolute possession of the said property. But, due to lapse of time, the documents were found missing but Mr. Govindaraj constructed a pump set room in S. No. 114/1 and obtained electricity connection No. SC 54. This was done during the life time of Mr. Rangaswamy Iyengar. The said Rangaswamy Iyengar died in the year 1986. Till the death of Rangaswamy Iyengar, neither he nor the respondents 4 to 9 objected to the same. After the demise of Mr. Govindaraj, father-in-law of the petitioner, in the year 1989, the said land was in absolute possession of the petitioner's husband. Thereafter, he executed a settlement deed dated 29.08.2007, registered vide Document No.8774 of 2007, settling in favour of the petitioner. The petitioner applied for patta in respect of the said property to the Head Quarters Deputy Tahsildar, Thiruporur, Kancheepuram District. After making enquiries, the Head Quarters Deputy Tahsildar, Thiruporur issued patta, in the name of the petitioner, in Patta No. 215 in respect of S. No. 114/1 Karumbakkam Village, Chengalpattu for the lands measuring to an extent of 17 ½ cents. The Chitta and Adangal also stood in the name of the petitioner.

3. Whiles, the Head Quarters Deputy Tahsildar, Thiruporur, without conducting any enquiry, or without even issuing any notice, suo motto, cancelled the patta already issued in favour of the petitioner and the same was also not communicated to the petitioner. The respondents 4 to 9 executed a Power of Attorney, in favour of one Tmt. N. Rajeshwari, the Managing Partner of M/S. S.L.K.K. Promoters, to deal with the said property. The 4th respondent has filed a suit in O.S. No. 42 of 2013 before the District Munsiff, Chengalpattu, challenging the settlement deed dated 29.08.2007 executed in favour of the petitioner. It is the submission of the learned counsel for the petitioner that before the cancellation of the patta, the Head Quarters Deputy Tahsildar, Thiruporur, Kancheepuram District ought to have given notice to the petitioner. Since, notice was not given, the petitioner has given two representations to the 2nd and 3rd respondents, to set aside the patta granted to the respondents 4 to 9 in Patta No. 247 but the said representation was not disposed.

4. When the matter came up for admission on 14.10.2015, this Court issued notice to the respondents. Notice has been served to respondents 1 to 4, so far as the respondents 5, 6, 8 and 9 the notice has been returned. As per the court endorsement, notice to the 7th respondent has been returned, with an postal endorsement "died". Considering the nature of the order to be passed, there is no need for this Court to issue any fresh notice to the respondent, who are unserved.

5. Heard Mr. S. Selvathirumurugan, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, for the respondents 1 to 3.

6. Considering the facts and circumstances of the case, this Court directs the petitioner to give a copy of the representations dated 10.02.2014 and 03.09.2015 with regard to cancellation of the patta granted in Patta No.247, along with a copy of this order to the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On filing of such representation, the first respondent is directed to consider the same, by affording an opportunity of personal hearing to the petitioner and to all the necessary parties viz., respondents 5, 6, 8 and 9 and pass appropriate orders. 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 first respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

avr

To

1 The Revenue Divisional Officer
Chengalpattu.

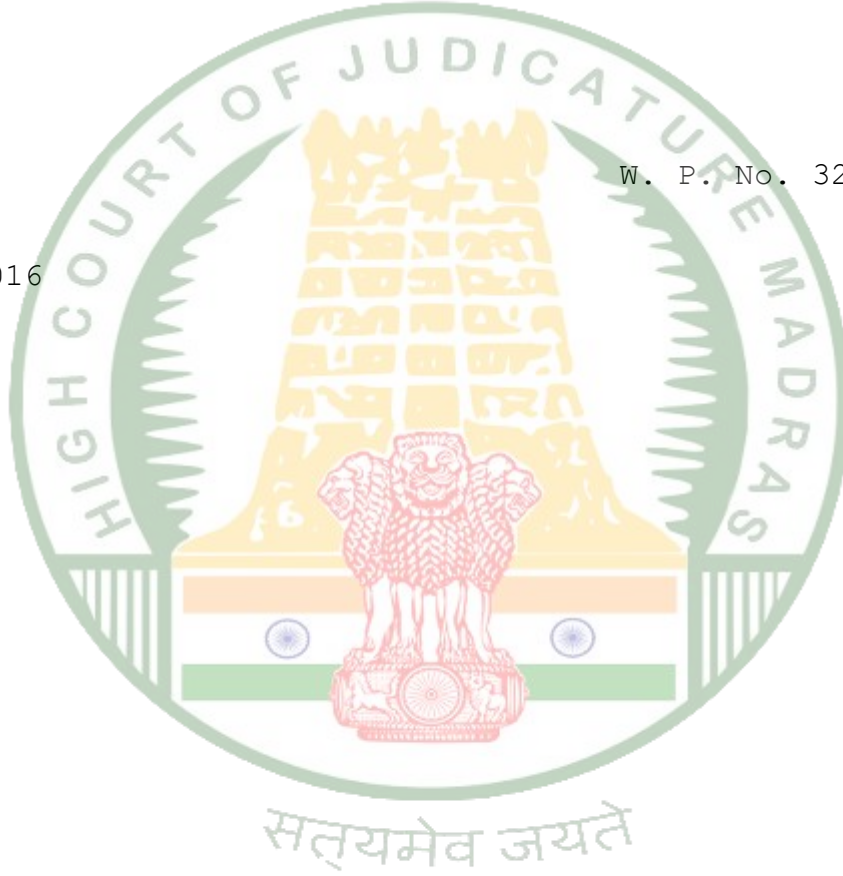
2 The Tahsildar
Thiruporur
Kancheepuram District.

3 The Head Quarters Deputy Tahsildar
Thiruporur
Kancheepuram District.

+1 cc to Mr.S.Selvathirumurugan Advocate sr.13609
+1 cc to Government Pleader, High Court Madras
sr.13245

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