

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.12871 of 2013

Balan

.. Petitioner

Vs

1.The District Collector,
Villupuram District.

2.The Tahsildar, Villupuram.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent to issue patta to the petitioner in respect of the property situate at S.No.71/1 Kuthampoondi Village, Villupuram District, measuring 2 acres and 20 cents.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.K.Balamurugan
GA for RR1 & 2

O R D E R

The petitioner seeks a direction to the second respondent to issue patta to him in respect of the property situate at S.No.71/ Kuthampoondi Village, Villupuram District, measuring 2 acres and 20 cents.

2. According to the petitioner, in a suit filed for declaration and delivery of possession which came to this Court by way of a second appeal, the petitioner along with three others had established their title over the said property. The relevant paragraph-11 of the Judgment in Second Appeal No.606 of 1990 dated 30.06.2002, is as follows:

"11. In view of the aforesaid decisions, it is evidently clear that the civil court is entitled to go into the question irrespective of the patta granted to any side of the plaintiffs clearly established that the plaintiffs their own predecessors alone have dealt with the property as their own. On the other hand, except the patta

issued in favour of the 1st defendant, there is no other record. There is no reasonable explanation on the part of the defendants relating to Exs.A1 and A2, title deeds, which have come into existence in 1928 and 1941 when parties would not have thought of any dispute at a later point of time. Considering the documentary evidence, I am of the view that the plaintiffs have positively established that they have got title to the defendant claiming himself to be a lessee under the 1st defendant, naturally the plaintiffs would be entitled to get recovery of possession. The lower appellate court has not correctly appreciated the legal position and simply dismissed the suit filed by the plaintiffs based upon the patta granted in favour of the temple. There is erroneous application of law and hence, an interference is called for."

3. In view of the positive direction of this Court in the second appeal, the petitioner has made an application to the second respondent seeking issuance of patta to his property comprised in S.No.71/1, to an extent of 2 acres 20 cents. According to the learned counsel for the petitioner, though the second respondent had received his representation, they had not initiated any proceedings for issuance of patta, which amounts to dereliction of their duty.

4. At this juncture, the learned Government Advocate would submit that if a direction is given to the second respondent to consider the petitioner's representation within a specified time, it would be complied.

5. Under such circumstances, there shall be a direction to the second respondent to consider the petitioner's representation dated 09.06.2011 seeking issuance of patta to the property comprised in S.No.71/1 Kuthampoondi Village, Villupuram District, in the light of the Judgment passed by this Court in S.A.No.606 of 1990 dated 31.06.2002 and after giving due opportunity to the petitioner as well as the other three appellants in Second Appeal No.606 of 1990 and pass appropriate orders in accordance with law within a period of 8 weeks from the date of receipt of a copy of this order. The petitioner shall also furnish a copy of the said representation along with the copy of the Judgment of the second appeal.

With the above directions, this writ petition is disposed
of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

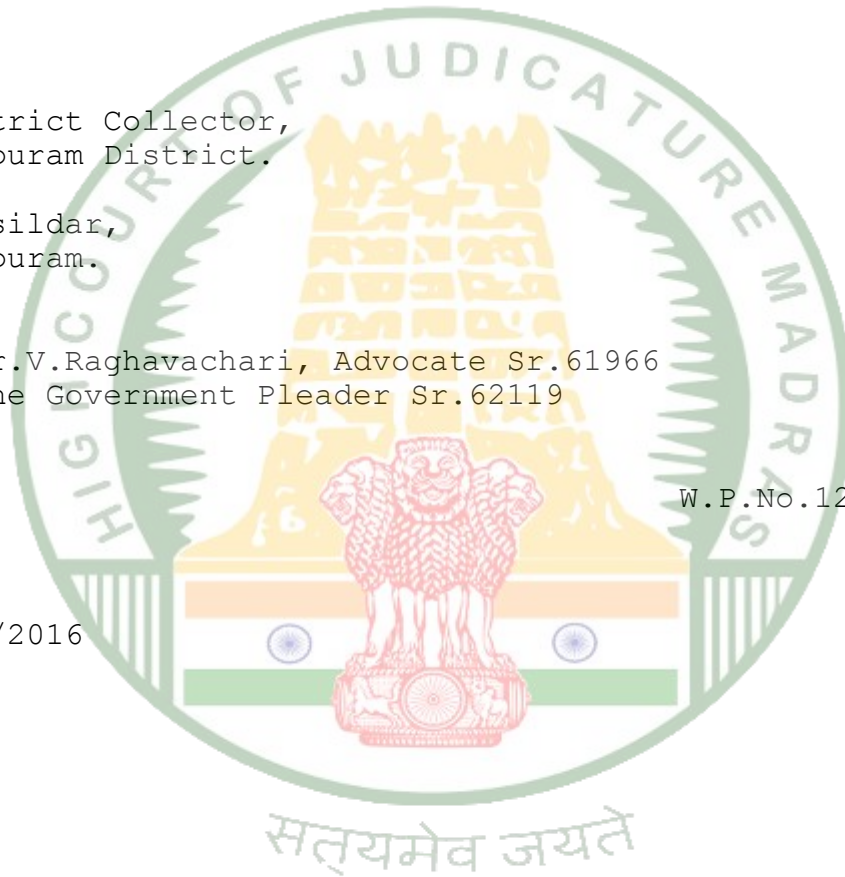
1.The District Collector,
Villupuram District.

2.The Tahsildar,
Villupuram.

+1cc to Mr.V.Raghavachari, Advocate Sr.61966
+1cc to the Government Pleader Sr.62119

W.P.No.12781 of 2013

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srg 02/12/2016



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