

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.2322 of 2016

S.Duraisamy

... Petitioner

vs.

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Dharapuram,
Tiruppur District.

3.The Tahsildar,
Taluk Office,
Dharapuram,
Tiruppur District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the third respondent to include the petitioner's name in the place of the petitioner's vendor's father late P.S.Abubacker in the Joint Patta Nos.91, 244 and 20 and collect the revenue kist from the petitioner in the aforesaid joint patta within the time stipulated by this Court.

For Petitioner : Mr.A.Ragupathy Raj

For Respondents : Mr.P.Sanjay Gandhi, AGP

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the third respondent to include his name in the place of his vendor's father late P.S.Abubacker in the Joint Patta Nos.91, 244 and 20 and collect the revenue kist from him in respect of the aforesaid joint patta within the time stipulated by this Court.

2. The case of the petitioner in brief is as follows:

2.1 The petitioner purchased the lands in S.Nos.264/C2, 264/D2, 306/B2 to an extent of 37 cents and in S.No.306/B1 to an extent of 0.00.27 cents and in S.No.306/C to an extent of 35 ½ cents totally 72 ½ cents from (i)A.Khursid Begum (ii)A.Niaz Ashif (iii)A.Nihal Ashiq (iv)A.Nowsath Ibrahim and (v)A.Nizara Begum, who are the legal heirs of one late P.S.Abubacker through a sale deed bearing document No.529/2012 on the file of Sub Registrar, Moolanur.

2.2 Patta No.91 in S.Nos.264/C2, 264/D2, 306/B2 measuring an extent of 2.11acres and Patta No.244 in S.No.306/B1 measuring an extent of 0.03 ½ cents originally belonged to one Sheik Ibrahim Rowthar. The petitioner's vendor's father late Abubacker was one of the legal heirs of the said Sheik Ibrahim Rowthar and he is entitled for his share of 0.37 cents, out of 2.11 acres in S.Nos.264/C2, 264/D2 and 306/B2 and also entitled for patta no.244 in S.No.306/B1 measuring an extent of 0.00.27 cents out of 0.03½cents. The said Abubacker is also entitled for his father's share of 35 ½ cents out of 71 cents in patta No.20 in S.No.306/2.

2.3 While so, the petitioner's vendors have executed a sale deed in favour of the petitioner regarding to their father's share in the family property in Patta Nos.91 and 244 and their father's self acquired property in patta No.20. From the date of purchase, the petitioner has been in possession and enjoyment of the said properties.

2.4 After the purchase, the petitioner made a petition to the Village Administrative Officer, Nanjaithalaiyur on 02.07.2015 for including his name in the place of his vendors' father Abubacker in the Joint Patta Nos.91, 244 and 20. He also paid the required amount by way of money order towards kist pertaining to those patta numbers to the third respondent herein. However, the third respondent by letter dated 12.08.2015 returned the money order to the petitioner by stating that the petitioner's name was not found in Chitta and no property tax receipt was issued, due to pendency of a Civil Suit before the District Munsif Court, Karur.

2.5 The petitioner again made a petition to the third respondent on 29.08.2015 under the RTI Act to find out the status regarding the transfer of patta in his name and to seek a copy of the order in this regard. In the said petition, the third respondent sent a reply to the

petitioner stating that in respect of the lands in question, a suit in O.S.No.16/2013 is pending before the District Munsif Court, Karur, in which, the petitioner has been impleaded as 13th defendant and after disposal of the same, patta transfer could be effected. Therefore, the petitioner has no other alternative except to approach this Court with the present petition for the above stated relief.

3. Learned counsel for the petitioner submitted that since no interim order has been passed against the petitioner in the civil suit filed by the parties for partition of the properties, the third respondent ought to have included the petitioner's name in the place of his vendor's father Abubacker in the Joint patta Nos.91, 244 and 20. However, the third respondent rejected the request of the petitioner on the ground of pendency of the civil suit. Further, learned counsel for the petitioner submitted that the petitioner has also approached the second respondent by way of a petition dated 01.10.2015 to include his name in the Joint patta Nos. 91, 244 and 20 in the place of his vendor's father late P.S.Abubacker and the said petition is pending. Learned counsel also submitted that the petitioner would be satisfied, if a direction is given to the second respondent to dispose of the said petition, within the time stipulated by this court.

4. Heard Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record. I find some force in the argument so advanced on the side of the petitioner. In the absence of any interim order by the civil court, prohibiting the third respondent from inclusion of the petitioner's name in the joint patta, the rejection of the petitioner's petition by the third respondent on the ground of pendency of the civil suit is unreasonable and without any basis. Hence, this Court directs the second respondent to consider the petition made by the petitioner dated 01.10.2015, by affording an opportunity of personal hearing to the petitioner as well as all the necessary parties if any and pass orders on merits and in accordance with law, with regard to inclusion of the petitioner's name in the joint patta Nos.91, 244 and 20. The entire exercise shall be completed as expeditiously as possible.

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

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

- 1.The District Collector,
Tiruppur District, Tiruppur.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Dharapuram, Tiruppur District.
- 3.The Tahsildar, Taluk Office,
Dharapuram, Tiruppur District.

1 cc to Mr.A. Ragupathy Raj, Advocat, Sr. 6667

W.P.No.2322 of 2016

SAI (CO)
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