

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.5295 of 2016

1.K.Raja
2.K.Suresh
3.R.Jayakannan
4.R.Pandian

... Petitioners

vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai-606 601.

2.The Revenue Divisional Officer,
Tiruvannamalai District,
Tiruvannamalai.

3.The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai.

4.The Special Tahsildar,
Town Land Tax Scheme,
Tiruvannamalai Town,
Tiruvannamalai.

5.The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai,
Tiruvannamalai District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the fourth Respondent to issue patta to the petitioners in T.S. No. 319 New Block No.8 (Old Block No.7) Ward No.2 of Tiruvannamalai Town in the Vaithilinga Mudali Lane to the extent of 900 sq.ft (83.5 Sq.Mt) based upon the Petitioners' representation dated 17.06.2015 by virtue of the recommendations dated 10.1.2013, 16.4.2013 and 03.09.2014 made by the Respondents 1 to 4 within the stipulated time as fixed by this Court.

For Petitioners : Mr.S.Kumara Devan

For Respondents : Mrs.P.Rajalakshmi,
Govt. Advocate,
for R.1 to R.4
Mrs.M.E.Rani Selvam,
for R.5

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioners have come up with the present writ petition for the issuance of writ of mandamus, directing the fourth Respondent to issue patta in their favour in respect of the property in T.S.No.319, New Block No.8 (Old Block No.7) Ward No.2 of Tiruvannamalai Town in the Vaithilinga Mudali Lane to the extent of 900 sq.ft (83.5 Sq.Mt) based upon their representation dated 17.06.2015 by virtue of the recommendations dated 10.1.2013, 16.4.2013 and 03.09.2014 made by the Respondents 1 to 4 within the stipulated time as fixed by this Court.

3. The case of the petitioners, in brief, is as follows:-

(a) The petitioners are brothers and they are the joint owners of their ancestral property at T.S.No.319, New Block No.8 (Old Block No.7) Ward No.2 of Tiruvannamalai Town in the Vaithilinga Mudali Lane to the extent of 900 sq.ft (83.5 Sq.Mt) and they are in peaceful possession and enjoyment of the said property. As per Village 'A' register, the said land has been mentioned as Natham Private under the possession of their grand father viz., K.Subramania Mudaliyar, who settled the said property in their favour on 3.8.1992 by way of a registered Will. The said property is their ancestral property and it is a lane. The said lane is connecting the petitioners' house situated in T.S.No.315 and Tirunavukkarasu Street. Their grand father bequeathed the said property in favour of the petitioners under a registered Will dated 3.2.1992. Even in the year 1969, in recognition of the possession and enjoyment of the said property by their grand father, the fourth respondent issued No Objection Certificate for grant of assignment patta vide T.S.24/78 dated 18.7.1969 and recommended to pass a resolution to the fifth respondent in this regard. Hence, the petitioners have repeatedly requested the respondents herein to grant patta for the said property in their name. Since the respondents were evading to comply with their demand, they filed a suit as against respondents 1, 3 and 5 in O.S.No.829 of 2004 before the learned District Munsif, Tiruvannamalai for declaration. The

said suit was decreed in favour of the petitioners on 27.3.2006. Thus, their right and title over the said property have been declared.

(b) Based on the said decree, the petitioners made a representation to the respondents on 12.5.2011 calling upon them to transfer patta. But, the third respondent sent a reply on 8.8.2011 stating that the said lane is classified as Vaithyalinga Mudali Street and hence, patta could not be transferred. Therefore, once again they have filed a suit in O.S.No.223 of 2011 for transfer of patta before the learned District Munsif, Tiruvannamalai and the same is pending.

(c) While so, on 3.9.2012, the second petitioner made a representation to the third respondent, who forwarded the same to the Sub Inspector of Revenue for further action vide RTR No.5032/2012 dated 3.9.2012. The said Sub Inspector of Revenue conducted a detailed enquiry and scrutinized all their documents and submitted his report to the third respondent on 1.10.2012 recommending for mutation of patta in favour of the petitioners. On 10.1.2013, the third respondent sent his report to the second respondent vide RTR No.5032/2012-13 dated 10.1.2013 and recommended to issue patta in favour of the petitioners by forwarding the same to the fourth respondent, who is the competent authority to issue patta.

(d) On 16.4.2013, the second respondent recommended to issue patta in favour of the petitioners vide proceedings in Moo.Mu. No.(A3)/349/2013 dated 16.4.2013 based on the recommendation of the third respondent. On 26.7.2013, the first respondent forwarded all the recommendations to the fourth respondent for taking necessary action. Thereafter, the fourth respondent vide proceedings in Na.Ka.A1/70/2013 dated 3.9.2014, after scrutinizing all the facts, recommended the first respondent to issue patta in their favour. Based on the said recommendation, the first respondent made a communication on 14.10.2014 to the second respondent to take necessary action to recommend the Special Tahsildar, Town Land Tax Scheme, Tiruvannamalai to issue patta in favour of the petitioners. The second respondent has also directly made a recommendation on 13.11.2014 to the fourth respondent to issue patta in favour of the petitioners. But, the fourth respondent is, without considering the same, keeping the file without taking any action. In this regard, the petitioners made several representations. But, till date, no action was taken on them. Hence, the petitioners have come forward with the present writ petition seeking a direction to the fourth Respondent to issue patta in their favour in T.S.No.319, New Block No.8 (Old Block No.7) Ward No.2 of Tiruvannamalai Town in the Vaithilinga Mudali Lane to the extent of 900 sq.ft (83.5 Sq.Mt) based upon

their representation dated 17.06.2015 by virtue of the recommendations dated 10.1.2013, 16.4.2013 and 03.09.2014 made by the Respondents 1 to 4 within the stipulated time as fixed by this Court.

4. Heard the learned counsel appearing for the petitioners, learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioners to give a fresh representation to the fourth respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the fourth respondent is directed to consider the same with regard to issuance of patta in favour of the petitioners in respect of the property in T.S.No.319, New Block No.8 (Old Block No.7) Ward No.2 of Tiruvannamalai Town in the Vaithilinga Mudali Lane to the extent of 900 sq.ft (83.5 Sq.Mt), by virtue of the recommendations dated 10.1.2013, 16.4.2013 and 03.09.2014 made by the Respondents 1 to 3 and pass / take appropriate orders / action, within a period of eight weeks thereafter, by affording an opportunity of personal hearing to the petitioners as well as the necessary parties, if any. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai-606 601.

2.The Revenue Divisional Officer,
Tiruvannamalai District,
Tiruvannamalai.

3.The Tahsildar,
Tiruvannamalai Taluk,
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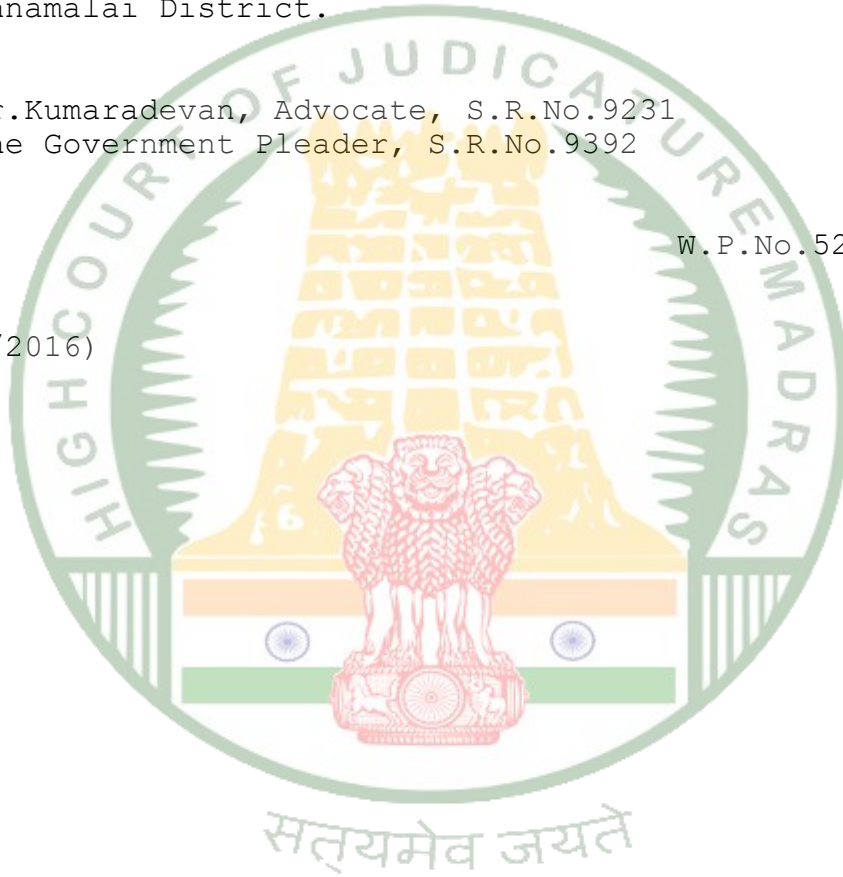
4.The Special Tahsildar,
Town Land Tax Scheme,
Tiruvannamalai Town,
Tiruvannamalai.

5.The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai,
Tiruvannamalai District.

+1cc to Mr.Kumaradevan, Advocate, S.R.No.9231
+1cc to the Government Pleader, S.R.No.9392

W.P.No.5295 of 2016

mg (CO)
srg (27/02/2016)



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