

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8405 of 2016

Smt.T.Parvathy

.. Petitioner

Vs.

1. The District Revenue Officer,
Salem District, Salem-636 001.

2. The Revenue Divisional Officer,
Vazhapadi Circle, Salem District,
Salem-636 001.

3. The Tahsildar,
Central Co-operative Bank Compound,
1st Floor, Cherry Road,
Salem HO, Salem-636 001.

4. Mr.K.T.Elayakannu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's application, dated 29.06.2015 for cancellation of patta granted in favour of the fourth respondent and re-transfer the patta in the petitioner's name in respect of the property situated in Survey No.55/1, Keeraipatti Village, Periyakuttimaduvu, Vazhapadi Circle, Salem District.

For Petitioner : Mr.J.Hudson Samuel for M/s.Paul and Paul
For Respondents : Mr.R.A.S.Senthilvel, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's application, dated 29.06.2015 for cancellation of patta granted in favour of the fourth respondent and re-transfer the patta in the petitioner's name in respect of the property situated in Survey No.55/1, Keeraipatti Village, Periyakuttimaduvu, Vazhapadi Circle, Salem District.

2. In the affidavit filed in support of the Writ Petition, the petitioner has stated that she is the second wife of late Shri.Thiruman and while he was alive, he purchased a vacant land measuring 1.74 cents at Salem District, Vazhapadi Circle, Periyakuttimaduvu Group, Keeraipatti Village in Survey No.55/1 from one Mr.Periyasami and others. The petitioner's husband divided the said vacant land into two equal shares, measuring 0.87 cents each and registered one-half share on the Southern side in petitioner's favour and another half-share on the Northern side in the name of his first wife Mrs.Kaliammal, vide respective registered documents. It is the further case of the petitioner that patta for the above land was transferred on 18.12.1984 by the Tahsildar and patta No.382-61/84/85 was issued in favour of the petitioner in respect of 0.87 cents in Survey No.55/1 and patta No.383-61/84/85 for another extent of 0.87 cents in the same survey number and transfers were recorded in 'A' Register. After transfer of patta, the petitioner has been in continuous and uninterrupted possession and enjoyment of her share of property till date. While so, without even any notice, the fourth respondent, who is the son of the first wife of the petitioner's husband, using his political influence, fraudulently obtained UDR patta No.5 in his name in respect of the total extent of 1.74 cents (70.50 ares) in Survey No.55/1. In spite of several requests by the petitioner, the fourth respondent refused to re-transfer the patta for 0.87 cents in favour of the petitioner, even though she is the rightful owner of the same. The fourth respondent, without any title, based on the said UDR patta, settled the entire extent of 1.74 cents in favour of his mother by registered settlement deed executed in 2014 and transferred the patta in favour of his mother (first wife of the husband of the writ petitioner). On execution of the settlement deed, the petitioner came to know of the change of patta of her property. The petitioner complained by way of representation, dated 29.06.2015 to the respondents 1 to 3 for cancellation of UDR patta issued to the fourth respondent and its subsequent transfer in favour of the said Kaliammal. The respondents 1 to 3 failed to consider the request for cancellation. Hence, the petitioner is before this Court for the above relief.

3. In view of the order that is going to be passed in this Writ Petition, it is not necessary to issue notice to the fourth respondent.

4. Heard both sides.

5. Taking into consideration the facts and circumstances of the case, this Court directs the second respondent-RDO to consider the said representation, dated 29.06.2015 of the petitioner and after conducting enquiry and giving an opportunity of personal hearing to the petitioner and other

necessary parties, including the fourth respondent, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the second respondent-RDO to consider the same before disposing of the said representation on merits.

6. With the above observations and directions, the Writ Petition is disposed of. No costs.

CS

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Copy to

1. The District Revenue Officer,
Salem District, Salem-636 001.
2. The Revenue Divisional Officer,
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3. The Tahsildar,
Central Co-operative Bank Compound,
1st Floor, Cherry Road,
Salem HO, Salem-636 001.

+ 1 cc to M/s.Paul & Paul, Advocate, SR 14324

+ 1 cc to Govt.Pleader, High Court, Madras SR 14626

mg(co)
prk21/3

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