

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8849 of 2016

I.Kamal Basha

... Petitioner

Vs.

1.The District Collector,
Tirupur District.

2.The Commissioner,
Udumalpet Municipal Office,
Udumalpet-642 126.

3.The Tashildar,
Udumalpet-642 126.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the second and third respondents to consider the representations dated 03.11.2011, following the representation dated 08.01.2016, for issuing 'Patta' in respect of land to the extent of 1755 sq.ft with the building thereon bearing Door No.83-B and 83-C, Nakeerar Street which was formerly called as Boyer Street in Udumalpet Municipal Town falling within Ward No.16 on verification of records.

For Petitioner : Mr.H.Nazirudeen

For respondents : Mr.V.Jayaprakash Narayanan, Spl.GP.

(For R1 & 3)

Mr.A.S.Thambusamy (For R2)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the respondents 2 & 3 to consider the representations dated 03.11.2011 & 08.01.2016 for issuing 'Patta' in respect of the land measuring to an extent of 1755 sq.ft with the building thereon, bearing Door No.83-B & 83-C, Nakeerar Street, which was formerly called as Boyer Street in Udumalpt Municipal Town, falling within Ward No.16.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows

2-1.Originally, the land measuring to an extent of 1755 sq.ft, with the building thereon, bearing Door No.83-B & 83-C, Nakeerar Street, in Udumalpet Municipal Town, belonged to one Mr.Rahiman Sahib, who had conveyed the same to one Mrs.Karuppayee by virtue of Doc.No.2198/1910, dated 30.11.1910 under Gift Settlement Deed. The said Karuppayee, along with her son, had conveyed the said property for valuable consideration by virtue of the Sale Deed bearing Doc.No.1845/1916, dated 14.07.1961, in favour of one Mrs.Kittu Bi @ Kudu Bi, W/o.Mr.Adam Sahib, who had only son namely Mr.Hussain Sahib. After the demise of parents, the property was devolved upon Mr.Hussain Sahib who sold the same to one Mr.Jamaluddin and his wife Mrs.Rahamath Bi, for valuable consideration by virtue of Sale Deed bearing Doc.No.2803/1981, dated 15.09.1981. Thereafter, the petitioner herein purchased the said property in the year 2002 by sale deed dated 11.09.2002.

2-2.Earlier, on the devolution of interest in immovable property in favour of the said Mr.Hussain Sahib, there was a dispute on the landholdings, and the criminal proceedings were initiated by the 2nd respondent-Municipality. The 2nd respondent-Municipality, claiming ownership over the property which is said to have been earmarked for 'slaughterhouse', had filed C.C.No.1931/1964 alleging that Mr.Hussain Sahib is an encroacher and the same resulted in fine of Rs.20/- by the Sub-Magistrate, Udumalpet. On being aggrieved against the order imposing fine, the said Hussain Sahib preferred an Appeal on Crl.Appeal No.145/1965 and the order of the Sub-Magistrate, Udumalpet was set aside by the District Magistrate, Coimbatore. In sequence thereof, the 2nd respondent filed a Suit bearing O.S.No.103/1975 before the District Munsif Court, Udumalpet praying for declaration of title, possession and mesne profits as well as for costs, against Hussain Sahib, Jamaluddin Sahib and Rahmat Bibi and the same was decreed as prayed for. On further appeal by the parties, who suffered decree before the Sub-ordinate Judge, Udumalpet, the Decree and Judgment of the District Munsif was set aside in A.S.No.26 of 1977 on 24.10.1977. The 2nd respondent, on being aggrieved against the decree and judgment, preferred second appeal in S.A.No.1244 of 1978 before this Court, which was also dismissed on 02.12.1981. Thereby, the right and ownership of the petitioner's predecessors-in-title was confirmed and absolute, without any legal embargo or hindrance.

2-3.As on date, being an absolute owner, the petitioner is continuously paying Property Tax to the 2nd respondent. Even after having lost the legal battle, the 2nd

respondent seems to continue its name in the revenue records. When the petitioner made requisition in person to get Patta, the 3rd respondent is insisting to get no objection from the 2nd respondent. The petitioner had produced all relevant documents relating to his title, & possession as set out hereinunder_

(a) Sale Deeds, by which, predecessor derived title, evidencing title and possession in respect of the land with building.

(b) Property tax assessment receipts.

(c) Family Card

(d) Electricity Bill

(e) Copies of the Decree and Judgment in O.S.No.103/1975.

(f) Copies of the Decree and Judgment in A.S.No.26/1977

(g) Copies of the Judgment in S.A.No.1244/1978.

The petitioner made representations dated 03.11.2011 & 08.01.2016 seeking to issue patta in favour of the petitioner in respect of the subject property. Since the petitioner's representations were not considered by the respondents, the petitioner has come forward with the present writ petition.

3. Heard both sides and perused the materials available on record.

4. Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioner, this Court directs the 3rd respondent to consider the representation dated 08.01.2016 given by the petitioner and pass appropriate orders, after affording opportunity of personal hearing to the petitioner as well as to all other necessary parties, if any, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

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

ssv

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1.The District Collector,
Tirupur District.

2.The Commissioner,
Udumalpet Municipal Office,
Udumalpet-642 126.

3.The Tashildar,
Udumalpet-642 126.

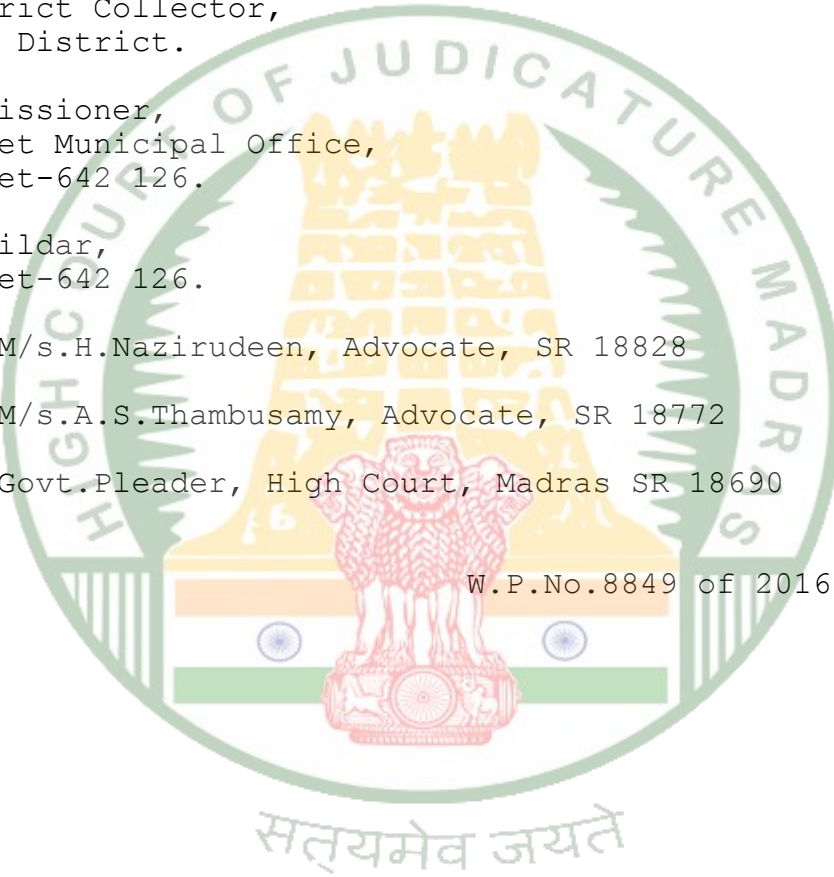
+ 1 cc to M/s.H.Nazirudeen, Advocate, SR 18828

+ 1 cc to M/s.A.S.Thambusamy, Advocate, SR 18772

+ 1 cc to Govt.Pleader, High Court, Madras SR 18690

ssk(co)
prk20/4

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