



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

WEB COPY

Coram:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) No.8684 of 2011

Thavasi @ Thavamani

.. Petitioner

-Vs-

1. The Revenue Divisional Officer,
Periyakulam,
Theni District.

2.M.Maayajothi

3.M.Mohandas

4.M.Nattarajan

5.P.Guruchamy

6.P.Chinna Guruchamy

7.P.Gnanagurusamy

8.P.Sekar

9.A.Raman

.. Respondents

(R2 to R9 impleaded as respondents as per order
of this Court dated 22.08.2011 in MP(MD)No.1 of 2011
in WP(MD)No.8684 of 2011)

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, forbearing the 1st respondent from effecting patta transfer in pursuant of enquiry notice in Na.Ka.No.4849/2011/A1 dated 05.07.2011 till the disposal of pending suit in O.S.No.20 of 2011, District Munsif Court, Andipatty.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.R.Guru, (for R1)

Government Advocate

No Appearance (for R2 to R9)

ORDER

This writ petition is filed to issue a Writ of Mandamus, forbearing the 1st respondent for effecting patta transfer in pursuant of enquiry notice in Na.Ka.No.4849/2011/A1 dated 05.07.2011 till the disposal of pending suit in O.S.No.20 of 2011, District Munsif Court, Andipatty.



2.The case of the petitioner is that he purchased a property situated in S.Nos.322/2 and 322/4A measuring to an extent of 2 acres 9 cents from one Nagammal under a registered sale deed. When the petitioner purchased the above said properties, there was a civil dispute pending at the stage of Second Appeal Nos.287 of 1984 and 288 of 1984. In the said appeal the petitioner's vendor was the appellant and the said second appeal was allowed by judgment and decree dated 03.03.1998. On the strength of the judgment and decree passed in favour of the petitioner's vendor, he applied for patta to the Revenue Divisional Officer, Periyakulam, vide application in R.O.C.No.1382/1999 A1. On receipt of the patta transfer application, the learned Revenue Divisional Officer, Periyakulam by his order dated 08.05.1999 directed the Tashildar, Andipatti to implement the order of this Court made in S.A.Nos.287 and 288 of 1984 and further to transfer the patta for the lands comprised in S.Nos.322/2, 322/4A, Pulimankombai, Antipatti Taluk to the name of the petitioner.

3.It is the further case of the petitioner that in the meantime the respondent in the above second appeal preferred Special Leave Petition before the Hon'ble Supreme Court of India and there was no stay granted in the said SLP. On the basis of the proceedings of the 1st respondent dated 08.05.1999, the Tashildar, Andipatti has issued patta in the name of the petitioner and his wife, vide patta No.1192 on 13.06.2003. Thereafter, the legal heirs of the respondent in the above Second Appeal filed a suit against the petitioner and his wife in O.S.No.20 of 2011 before the District Munsif Court, Andipatti for recovery of possession. The petitioner stated that when the said suit is pending, he received enquiry notice dated 05.07.2011 from the 1st respondent calling upon the petitioner to appear for enquiry regarding transfer of patta relating to the properties compromised in S.Nos.322/2, 322/4A and 322/4. The petitioner also appeared for the enquiry before the 1st respondent and submitted his written explanation on 08.07.2011 along with supporting documents. However, the 1st respondent herein without passing any order again posted the enquiry to 22.07.2011. Therefore, the petitioner has filed the present writ petition forbearing 1st respondent from effecting patta transfer till the disposal of the suit in O.S.No.20 of 2011 pending before the District Munsif Court, Andipatti.

4.Though the respondents 2 to 9, who are the plaintiffs in O.S.No.20 of 2011 were impleaded as respondents 2 to 9 in this writ petition, but, there is no appearance on behalf of the respondents 2 to 9.

5. I heard Mr.S.Balamurugan, learned counsel appearing for the petitioner and Mr.R.Guru, learned Government Advocate appearing for the 1st respondent and no representation on behalf of the

respondents 2 to 9 and the entire materials available on records are perused.

6. On perusal of records it is noticed that the petitioner has purchased the property comprised in S.Nos.322/2, 322/4A in Pulimankombai Village, Andipatti Taluk vide a registered sale deed, thereupon the petitioner applied for transfer of patta for the properties mentioned above before the 1st respondent herein. The 1st respondent herein after conducting an elaborate enquiry, by an order dated 08.05.1999 directed the Tashildar, Andipatti to implement the order of this Court made in S.A.No.287 of 1984 dated 03.03.1998 and further to take steps to transfer patta in the name of the petitioner. As per the order of the 1st respondent, the Tahsildar, Andipatti, transferred the patta to the properties purchased by the petitioner in the name of the petitioner and his wife, vide patta No.1192, the petitioner was also issued with computerized patta by the Tasildhar, Andipatti. Being so, the 1st respondent herein issued an enquiry notice pursuant to the patta transfer application submitted by the respondents 2 to 9 herein. On receipt of the enquiry notice it seems that the petitioner appeared and submitted his written explanation on 08.07.2011 before the 1st respondent. The contention put forth by the learned counsel for the petitioner is that the 1st respondent herein after holding enquiry on 08.07.2011 has not passed any orders, on the other hand he has adjourned the enquiry to some other day without any valid reasons.

7. Per contra, the learned Government Advocate for the 1st respondent submitted that the present writ petition is not maintainable. In so far as patta transfer is concern it is for the 1st respondent to conduct enquiry and pass order under the powers given to him under the Patta Passbook Act, 1983. Since the petitioner has filed this writ petition, the 1st respondent is not in a position to pass any order on the application seeking for patta transfer filed by the respondents 2 to 9 herein. Hence, the learned Government Advocate prayed to dismiss this writ petition.

8. Considering the rival submissions, this Court is of the view that it is for the 1st respondent to pass order on the patta transfer application filed by the respondents 2 to 9. The admitted case on either side is that the petitioner has submitted his written explanation along with documents on 08.07.2011 itself and the same is kept pending without passing any orders by the 1st respondent.

9. At this juncture, this Court is not inclined with the contention of the learned counsel for the petitioner that the 1st respondent cannot pass any order till the disposal of suit in S.A.No.20 of 2011, since the above suit filed by the respondents 2 to 9 herein against the petitioner is for the relief of recovery of a possession and the same has nothing to do with patta





transfer. Therefore, this Court is of the opinion that this writ petition could be disposed of with the following direction.

10. In the result, the 1st respondent is hereby directed to complete the enquiry regarding patta transfer in pursuance of enquiry notice in Na.Ka.No.4849/2011/A1, dated 05.07.2011 and to pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order. No cost.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Revenue Divisional Officer,
Periyakulam,
Theni District.

+1cc to Mr.S.Balamurugan, Advocate Sr.No.78662
+1cc to Spl.Government Pleader Sr.No.79041

VSA/SKN

VB/MR/SAR4/29.06.2017/4P/4C

W.P. (MD) No.8684 of 2011

01.12.2016