



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :02.08.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) .No.9272 of 2013

R.Janaki

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Tirunelveli.

3.The Tahsildar,
Sankarankovil,
Tirunelveli District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining in Na.Ka.No.Aa7/8494/2012, dated 28.09.2012, quash the same and direct the 3rd respondent to issue patta in the name of the petitioner for the Natham land measuring an extent of 41 cents in Survey No.579/1 in Vannikonanthal Village, Sankarankovil Taluk, Tirunelveli District in the light of the judgment and decree passed in O.S.No.139 of 2009 on the file of the District Munsif Court, Sankarankovil.

For petitioner : Mr.M.Saravanan

For Respondent : Mr.S.Kumar

Additional Government Pleader

ORDER

This writ petition is filed for issuance of Certiorarified Mandamus, to call for the records pertaining in Na.Ka.No.Aa7/8494/2012, dated 28.09.2012, quash the same and direct the 3rd respondent to issue patta in the name of the petitioner for the Natham land measuring an extent of 41 cents in Survey No.579/1 in Vannikonanthal Village, Sankarankovil Taluk, Tirunelveli District in the light of the judgment and decree passed in O.S.No.139 of 2009 on the file of the District Munsif Court, Sankarankovil.



2.The brief facts of the case are as follows:

The petitioner claims to be the owner of natham property in old Survey No.1129 and new Survey No.579/1 to an extent of 41 cents in Vannikonanthal Village, Sankarankovil Taluk, Tirunelveli District. The petitioner claims the property, on the basis of Will dated 10.12.1984, alleged to have been executed by one Velayutham Chettiar. She filed a suit in O.S.No.139 of 2009 on the file of the Principal District Munsif Court, Sankarankovil for declaration of title and permanent injunction as against the respondents 1 and 3 herein namely the District Collector and the Tahsildar.

3.It is not in dispute that the suit filed by the petitioner in O.S.No.139 of 2009 is decreed after full trial and that the decree has become final.

4.In the circumstances, it appears that the petitioner has given a representation on 05.07.2011, for the grant of patta, after enclosing a copy of the judgment and decree passed in O.S.No.139 of 2009. Since the third respondent did not pass any order on the petitioner's representation, the petitioner gave another representation to the second respondent, on 16.08.2011, which has been forwarded to the third respondent. Since the two representations of the petitioner was not considered, subsequently, he filed a writ petition in W.P.(MD)No.8817 of 2012, before this Court, seeking a direction to the third respondent to consider her representations. This Court has allowed the writ petition, by order dated 29.06.2012, with a direction to the third respondent to consider the petitioner's representation dated 16.08.2011. Even thereafter, the third respondent did not pass any order. But, after issuance of the contempt notice by the petitioner's counsel on 16.10.2012, the petitioner received the impugned order on 01.11.2012, which was passed by the third respondent on 28.09.2012, rejecting the petitioner's representation dated 16.08.2011, without even advertting to the judgment and decree of the trial court, passed in O.S.No.139 of 2009.

5.I have heard the submissions of both counsels and perused the materials available on record.

6.From the reading of the impugned order, it is obvious that the third respondent has not considered the judgment of the Trial Court, wherein the title of the petitioner against the respondents 1 and 3 has been declared. The Trial Court has also granted a decree for permanent injunction restraining the respondents 1 and 3 herein from interfering with the petitioner's peaceful possession and enjoyment of the properties, which are the subject matter of the suit. <https://hcmca.judges.org.in/judges>, there is no dispute with regard to the identity of the property, which is the subject matter of the suit and the property for which the petitioner seeks patta before the third



respondent. The third respondent without considering the contentions of the petitioner and also the decree and judgment of the Trial Court, has passed an order, rejecting the request of the petitioner, by treating the petitioner's request as one for assignment. The reason stated in the impugned order is that the petitioner is having a vast extent of land worth about Rs.12 lakhs that he is owning a residential house and a Rice Mill and that therefore the petitioner is not entitled for assignment of extent of 3 cents. Hence, the impugned order is not sustainable in law.

7. It is a settled position of law that the Revenue Officials are expected to correct the Revenue Records in accordance with the declaration of title, granted by the Civil Court. In this case, the third respondent has not adverted to the decree passed by the Civil Court, which has become final. In my considered view, the impugned order is liable to be set aside and hence it is set aside.

8. This writ petition is therefore allowed with a direction to the third respondent to issue patta in the name of the petitioner in respect of the land measuring to an extent of 41 cents in Survey No.579/1 in Vannikonanthal Village, Sankarankovil Taluk, Tirunelveli District in the light of the judgment and decree passed by the learned District Munsif, Sankarankovil in O.S.No.139 of 2009, within a period of 8 weeks from the date of receipt of copy of this order. No Costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,Tirunelveli District,Tirunelveli.

2.The Revenue Divisional Officer,
Revenue Divisional Office, Tirunelveli.

3.The Tahsildar,Sankarankovil, Tirunelveli.

+One cc to The Special Government Pleader, SR.No.41539

+One cc to Mr.R.J.Karthick, Advocate, SR.No.41420

RL/6C/2P/SKS/RR/7/9/2016

W.P(MD) .No.9272 of 2013

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