



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2017

CORAM :

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD) No.14771 of 2013

1. Kuraisa Beevi (died)
2. S.Nazar
3. S.Ithayathulla
(Petitioners 2 and 3 substituted as LR's. of the
deceased sole petitioner vide order
dated 24.04.2015). ... Petitioners

Vs.

1.The District Collector,
Dindigul District.
2. The Revenue Divisional Officer,
Dindigul,
Dindigul District.
3. The Tahsildhar,
Nilakottai Taluk,
Dindigul District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records in Na.Ka.No.1100/13/A4 dated 19.04.2013 on the file of the 3rd respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the 3rd respondent to grant patta in respect of the property measuring 26 cents of land in old Survey No.641/6 presently in new Survey No.853/11 comprising of house property in D.No.72/8-2-4 with surrounding vacant space in Oruthattu Village, Ammaianaickanur.

For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus to call for the records in Na.Ka.No.1100/13/A4 dated 19.04.2013 on the file of the third respondent and quash the same as illegal and further direct the



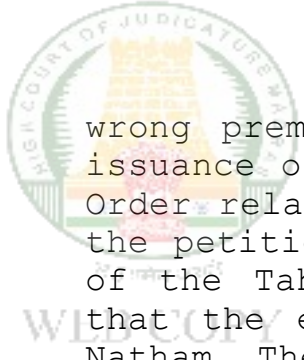
third respondent to grant Patta in respect of the property measuring 26 cents of land in Old Survey No.641/6 presently in new Survey No.853/11 comprising of house property in D.No.72/8-2-4 with surrounding vacant space in Oruthattu Village, Ammaianaickanur.

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2. The grievance of the petitioner is that her request for Patta to an extent of 26 cents in Survey No.853/11, which has been classified as Village Natham, has been rejected by the Thasildar, on extraneous grounds. Admittedly, the said property was subject matter of I.P.No.5 of 1950 on the file of Sub Court, Madurai and the same was sold by the Official Receiver to one Periyathampiya Pillai @ Muthaiyya Pillai. After the said purchase, Periyathampiya Pillai @ Muthaiyaa Pillai had executed a registered Will in favour of his sons Jeyasakthivel, Sudanthiramani and Jeyapaul on 06.05.1967. The said three sons of Periyathampiya Pillai @ Muthaiyaa Pillai had sold the property under sale deed dated 22.12.1975 to the petitioner Kuraisa Beevi. According to the petitioner, she has been in possession of the property right from the date of purchase by putting up a house in three cents. The petitioner died pending the writ petition and her legal representatives have been impleaded as petitioners 2 and 3, by an order dated 24.04.2015.

3. Heard the learned counsel for the petitioners and the learned Additional Government Pleader appearing for the respondents.

4. The Tahsildar, Nilakottai had rejected the request of the petitioner on the ground that the property was classified as Grama Natham and relying upon the Revenue Standing Orders 21 and treating the application of the petitioner as one for assignment, the Tahsildar has concluded that there cannot be any assignment of land more than an extent of 3 cents in that property. Hence, the Tahsildar has allowed the application of the petitioner to an extent of 0.00.95 sq.mtrs. only and the request of the petitioner for the remaining extent has been rejected. It is settled law that Grama Natham are the lands commonly used by the villagers for housing. Before the introduction of the Natham Settlement Scheme in the year 1986, the person, who is in possession of Grama Natham was deemed to be the owner of the said land. The State did not have paramount title to lands classified as Grama Natham. The very object of introduction of the Natham Settlement Scheme was to bring these Natham land under assessment by issuing Patta. Under the guise of the Natham Settlement Scheme, the Government cannot assume itself the power of dispossessing persons, who were already in possession of Natham land. The restrictions regarding assignment imposed by the Revenue Standing Orders 21 cannot be relied upon in respect of lands classified as Village Natham. Therefore, it is clear that the Tahsildar has proceeded with a



wrong premise and treated the application of the petitioner for issuance of Patta as one for assignment and applying the Standing Order relating to assignment has chosen to reject the request of the petitioner, this, in my view, is clearly incorrect. The order of the Tahsildar, which is impugned in the writ petition shows that the earlier classification of the lands was only as Grama Natham. Therefore, the observation of the Tahsildar that the lands is not shown to be belonging to Somasundaram Pillai and others, who have been declared as insolvent in I.P.No.5 of 1950 is incorrect.

5. In view of the above, the writ petition is allowed and Rule Nisi is made absolute and the Tahsildar, Nilakottai is directed to issue Patta for the entire extent of 26 cents in Survey No.853 of 2011 to the petitioners 2 and 3, who are the legal-heirs of the deceased first petitioner. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(Co)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Dindigul District,
2. The Revenue Divisional Officer,
Dindigul,
Dindigul District.
3. The Tahsildhar,
Nilakottai taluk,
Dindigul District.

+1 CC TO MR.H.LAKSHMI SHANKAR ADVOCATE, SR NO.13704

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.13774

akv

MAS/SV-MMS:17.04.2017:3P-6C

W.P (MD) No.14771 of 2013
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