

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29/06/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.9143 of 2013 &
M.P.No.1 of 2013

Mrs.S.Rajeswari (Deceased)

2.Santhakumari
3.R.Vijay
4.Selvi Mythili
5.Jayakumar
6.Udaya Sankar
7.Thirumani
8.Suresh

... Petitioners

(Petitioners 2 to 8 substituted as LRs
of deceased S.Rajeswari, as per order
dated 27.10.2017 in W.M.P.No.23711 of 2017
in W.P.No.9143 of 2013)

Vs.

1.The District Collector,
Kancheepuram.

2.The President,
Arapanacheri Village Panchayat,
Kancheepuram.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings No.Na.Ka.15070/11/A2 dated 09.03.2013 regarding grant of patta pertaining to Survey No.40 (Old No.40/1 and 40/2) admeasuring about 1.01 acre at Arapanacheri Village, Kancheepuram to quash the first respondent's order dated 09.03.2013 and direct the first respondent to issue patta in petitioner's favour with regard to the above said property.

For Petitioners : Mr.V.Manohar

For Respondents : Mr.B.Anand
Government Advocate

O R D E R

Heard Mr.V.Manohar, representing Mr.S.Prabhu, learned counsel for the petitioners; Mr.B.Anand, learned Government Advocate for the respondents and perused the materials available on record.

2. This Writ Petition has been filed to quash the order of the first respondent, whereby, the request of the petitioners for issuance of patta was rejected.

3. The case of the petitioners is that the land measuring an extent of 1.01 acres in Survey No.40 (Old No.40/1 and 40/2) situated in Arapanacheri Village in Kancheepuram Taluk was originally owned by one Sarvesa Naicker, vide sale deed dated 03.04.1943, registered as document No.834 of 1943 on the file of SRO, Kancheepuram and by way of assignment in the year 1944. The said Sarvesa Naicker died leaving behind his wife and two sons. The legal heirs have sold the property to the petitioner through a registered sale deed dated 30.08.1971. The grievance of the petitioner is that she has not been issued with patta despite her repeated request.

4. The first respondent filed a counter stating that the writ petitioner failed to produce the copy of the sale deed dated 01.04.1943 and after repeated adjournments, a sale deed dated 30.08.1971 alone was produced. It is further stated in the revenue records the land in question has been classified as "pattai poromboke".

5. The learned counsel for the petitioners submitted that during the enquiry all the relevant records have been produced, but the impugned order came to be passed on the sole ground that the petitioners failed to produce the copy of the sale deed dated 01.04.1943 and if an opportunity is given, the petitioners undertake to produce the relevant documents to the first respondent.

6. Perusal of the impugned order and the stand taken by the respondents in the counter would reveal that the request of the petitioners for issuance of patta was rejected mainly on the ground that non-furnishing the sale deed dated 01.04.1943. However, a copy of the sale deed is annexed in the typed set of papers.

7. In the light of the above facts and the submission of the learned counsel for the petitioners, and to meet the ends of justice, the order impugned in this Writ Petition is set aside and the matter is remanded back to the first respondent for fresh disposal. The first respondent is directed to pass orders

after affording opportunity of personal hearing to the petitioners and in accordance with law. Such exercise shall be completed within a period of three months.

8. With the above observation, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The District Collector,
Kancheepuram.
- 2.The President,
Arapanacheri Village Panchayat,
Kancheepuram.

+1cc to Mr.S.Prabhu, Advocate Sr.41946
+1cc to the Government Pleader Sr.42295



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srg 12/07/2018

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