

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21258 of 2006

P. Vedavalli

...Petitioner

Vs.

1. The Collector,
Chennai District,
Rajaji Salai, Chennai-1.

2.The Tahsildar,
Egmore-Nungambakkam Taluk,
Chennai -31.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the letter No. (B4)TR/1287/2004-05 dated 05.10.2005 and quash the same and direct the second respondent to issue patta in favour of the petitioner/owner for the property in S.No.454/C to 454/B and 454/3, Egmore Village measuring an extent of 20 grounds and 2200 sq.ft., situated at Old No.17 then No.72 and now No.135, Poonamallee High Road, Kilpauk, Chennai - 10.

For Petitioner : M/s.Anand, Abdul & Vinoth

For Respondents : Mr. R. Govindasamy
Special Government Pleader

सत्यमेव जयते
O R D E R

The petitioner filed a writ petition challenging the order of Tahsildar dated 05.01.2005, wherein the second respondent refused to grant patta, against which, the present writ petition is filed.

2. The facts leading to the filing of the writ petition is as follows:

The property in S.No.454/C to 454/B and 454/3, Egmore Village measuring an extent of 20 grounds and 2200 sq.ft., situated at Old No.17 then No.72 and now No.135, Poonamallee High Road, Kilpauk, Chennai - 10, was originally owned by P.

Srinivasacharulu and his wife P.Kanakamma vide Doc.No.145/1912 dated 14.02.1912. The said P. Srinivasacharulu died intestate on 18.11.1911 leaving behind his wife P.Kanakamma and authorised his wife to adopt a son from any of his uncles family. Thereafter, the P.Kanakamma vide Doc.No.145/1912 dated 14.02.1912 has adopted one Anantha Padmanabhan, who was about three years and son of P. Krishnamachari, the uncle of Late P.Srinivasacharulu. Thereafter, P.Kanakamma conveyed the aforesaid property R.S.No.454/1 to 454/6 Egmore village situated at Old No.17 then No.72 and now No.135, Poonamallee High Road, Chennai-10, measuring an extent of 81 grounds in favour of adopted son Anantha Padmanabhan Charlu. Thereafter, the said P.Kanakamma also executed another two documents registered on 22.12.1932 26.05.1933, through which, several other properties were also settled in favour of Anantha Padmanabhan Charlu. The present petitioner 6th child of Anantha Padmanabhan Charlu, through registered settlement deed, got 1/6th share in the hereditary property in favour of his sons. Thereafter, the legal heirs of Anantha Padmanabhan Charlu including the petitioner and nine others carried on the real estate business of buying and selling the lands, house estates, etc., in the name and style of "Anantha Real Estate and Finance Corporation". It is further averred that the total extent of land is only 61 grounds as capital contribution in the partnership firm and the rest of 20 grounds 2200 still vests with the petitioner and her brothers and sisters. Thereafter on 30.04.1983 by way of a registered deed of Dissolution of partnership in Doc.No.32/83, the aforesaid partnership firm was dissolved. In the year 2004, the petitioner had applied for patta in respect of the remaining 20 grounds 2200 sq.ft

3. The application was filed on the ground that the petitioner and other legal representatives are in the possession of the property. However, the same was rejected by the second respondent vide impugned order on the ground that since the petitioner is not in possession of the property, granting patta in favour of the petitioner does not arise. However, by the impugned order, the second respondent gave liberty to the petitioner to renew her application for patta claimed by her after taking possession of the land claimed by her. The relevant portion of the letter of the Tahsildar dated 05.10.2005 is extracted hereunder as follows:

" The above circumstances, on the view of the reasons explained above, it is conduct that the applicant is not in possession of the property claimed by her. Unless the applicant is not in possession and enjoyment of the property, the request of the applicant cannot be considered. The applicant may be informed to renew her application for patta claimed by her after taking possession of

the land claimed for her."

In this background, the present writ petition is filed.

4. Though the second respondent rejected the claim of the petitioner under the Patta Pass Book Act, there is an appeal remedy available to the petitioner under Section 12 of the Patta Pass Book Act. Thereafter, further remedy is available to file revision before the Revisional Authority under Section 13 of the Patta Pass Book Act. The petitioner, without exhausting the appeal remedy, approaching this Court under Article 226 of the Constitution of India is not sustainable. Hence, this writ petition is liable to be dismissed.

In view of the above, the writ petition is dismissed granting liberty to the petitioner to work out his remedy in the manner known to law. No costs.
gv

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Chennai District,
Rajaji Salai, Chennai-1.

2.The Tahsildar,
Egmore-Nungambakkam Taluk,
Chennai -31.

+1cc to Mr.V.Anand, Advocate SR.No.25537

+1cc to Government Pleader sR.No.25628

sm:9.5.2018

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