

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 14.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No. 14795 of 2009
and M.P.Nos.1 of 2009 and 2011

Nazeema,M.D

.... Petitioner

vs.

1. The District Collector,
Thiruvalluvar District.

2. The Tahsildar,
Ambattur Taluk,
Thiruvalluvar District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus directing the respondents to grant patta in respect of the Natham Poromboke property bearing door No.311,312,313 comprised in Sruvey No.4/1, Kathirvedu village, New Nos.394,395 and 396.Sembium Road, Chennai to an extent of 12 cents in favour of the petitioner.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.M.Sricharan Rangarajan
Additional Government Pleader.

O R D E R

The instant writ petition has been filed for a writ of Mandamus directing the respondents No.1 and 2 to grant patta to the petitioner in respect of the natham poromboke property bearing door No.311,312,313, comprised in survey No.4/1, Kathirvedu Village, New.Nos.394,395 and 396, Sembium Road, Chennai.

2. The petitioner submits that, her husband Mr.Raja alias Moinudeen Kishore had purchased the said property to the extent of 12 cents from one Mr. Muthukumar for Rs.2 Lakhs. After the purchase of land, a bulding was constructed on the property. In the year 1998 some encroachers had attempted to dispossess the petitioner husband's property which resulted the petitioner's

husband to file a suit in O.S.No.73 of 1998 for permanent injunction.

3. The suit was decreed on 16.11.2000. It is the averment by the petitioner that on 06.10.2006, her husband executed a gift settlement deed whereby he gifted the property in favour of the petitioner through a register sale deed in Document No.11536 of 2006 on the file of the Sub Registrar, Ambattur. The petitioner thereafter approached the respondents for the direction for issuance of patta for the property. It is the submission of the petitioner that, the respondents had not issued the patta.

4. Heard both the learned counsel of the parties.

5. The Tamil Nadu Patta Pass Book Act, 1983 details of the procedure for modification in an entry in the Patta Pass Book. Section 10 of the Tamil Nadu Patta Pass Book Act, 1983 deals with the procedure that has to be followed for modification of the entries in Patta Pass Book reads as under:-

" 10.Modification of entries in the patta pass-book-(1)Where any person claims that any modification is required in respect of any entry in the patta pass-book already issued under section 3 either by revision of the death of any person or by reason of the transfer of interest in the land or by reason of any other subsequent change in circumstances, he shall make an application to the Tahsildar for the modification of the relevant entries in the patta pass-book.

(2) An application under sub-section(1) shall contain such particulars as may be prescribed and shall be accompanied by the documents if any relied on by the applicant as evidence in support of his claim.

(3) (a) Before passing an order on an application under sub-section (1), the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modification should be made in respect of entries in the patta pass-book, he shall pass an order accordingly and shall make such consequential changes in the patta pass-book as appeared to him to be necessary, for giving effect to his order.

(b) If the Tahsildar decides that, there is no case for effecting any modification in the entries in the patta pass-book, he shall reject the application.

(c) An order under clause (a) or clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed."

6. On receipt of such application, Tahsildar conducts an inquiry as mentioned under section 11 which read as under:-

"11. Persons to furnish information.-(1) any person whose rights or interests are required to be, or have been entered in any patta pass-book under this Act shall be bound, on the requisition of the Tahsildar engaged in preparing or modifying the entries in the patta pass-book, to furnish or produce for his inspection within such time as may be specified in such requisition, or within such further time as the Tahsildar may, in his discretion allow, all such information or documents needed for the correct preparation or revision thereof as may be within his knowledge or in his possession or power.

(2) Where any information is furnished or any document is produced in accordance with the requisition under sub-section (1), the Tahsildar or any officer authorised by him in this behalf shall give a written acknowledgement, thereof to the person furnishing or producing the same and shall endorse on such document a note under his signature stating the fact of its production and the date thereof."

7. The order can be challenged before the competent authority by filing an appeal under Section 12 and a further revision is provided before the District Revenue Officer under Section 13 against an order passed in Section of the Tamil Nadu Patta Pass Book Act, 1983. There is therefore a hierarchy of authorities which decides the issue of grant of patta. It is well settled that, writ Courts will not interfere when there is an effective alternative efficacious remedy available in a statute. Since there is an alternative remedy under Section 10 of the Tamil Nadu Patta Pass Book Act, 1983, I am not inclined to interfere under Article 226 of Constitution of India.

8. Being that as it may, since the writ petition filed way

back in the year 2009 in the interest of justice, the Tahsildar concerned is directed to consider the representation dated 10.07.2009 filed by the writ petitioner under Section 10 of the Tamil Nadu Patta Pass Book Act, 1983. Tahsildar is directed to conduct an inquiry and pass appropriate orders on merits and in accordance with law within the period of 10 weeks from the date of receipt of a copy of this order.

9. A perusal of the papers do not show any kind of receipt of the representation. In case, Tahsildar has not received the representation as stated in the writ petition, the petitioner is directed to file a fresh application. The petitioner is directed to go to the office of the Tahsildar and enquire whether his representation is still available on file. If the same is not available, the petitioner can file a fresh representation within a week from today and the Tahsildar is directed to consider the application within the stipulated time in this order.

10. Accordingly the writ petition stands disposed of. No Costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pkn

To

1. The District Collector,
Thiruvalluvar District.

2. The Tahsildar,
Ambattur Taluk,
Thiruvalluvar District.

+1cc to Mr.C.K.M.Appaji, Advocate, S.R.No. 64534

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SVN(CO)
GN(28/09/2018)