



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.310 of 2015

S.Dhanalakshmi

... Appellant/Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4.The Tahsildar,
Karaikudi,
Sivagangai District.

5.The District Backward Classes Welfare Officer,
Sivagangai District,
Sivagangai.

6.The District Adi-dravida Welfare Officer,
Sivagangai District,
Sivagangai.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 24.02.2015 made in W.P(MD)No.12806 of 2012, on the file of this Court.

Prayer in WP(MD). 12806/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 4th Respondent to issue patta in favour of the petitioner in respect of Town Survey NO. 922/9, 10 and 11 at Kalanivasal Village, Karaikudi Taluk, Sivagangai District measuring an extent of 77 cents and consequently forbear the respondents from putting up any construction therein and pass such further or other orders.



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For Appellant : Mr.S.Parthasarathy,
Senior Counsel
for Mr.T.Antony Arul Raj

For Respondents : Mrs.J.Padmaavathi Devi,
Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

This writ appeal is directed as against the order dated 24.02.2015 passed in W.P(MD)No.12806 of 2012, which was filed by the appellant/writ petitioner, for issuance of a Writ of Mandamus, directing the fourth respondent to issue patta in favour of the appellant/writ petitioner in respect of Town Survey Nos.922/9, 10 and 11 at Kalanivasal Village, Karaikudi Taluk, Sivagangai District, measuring an extent of 77 cents and consequently, forbear the respondents from putting up any construction therein and pass such further orders.

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

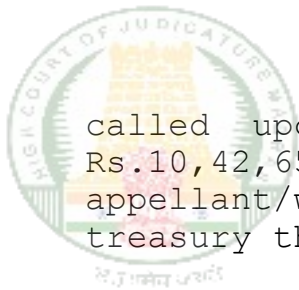
(i) According to the appellant/writ petitioner, the property belonged to her father-in-law and he had also put up a construction therein. After his demise, the petitioner and her husband are in possession and enjoyment of the property by paying property tax and provided electricity connection. However, the lands have been classified as agricultural punja lands by the Revenue Authorities. Therefore, the appellant/writ petitioner applied for granting Natham settlement patta before the Assistant Settlement Officer and the appellant/writ petitioner was also granted ryotwari patta under Section 15/4 of the Tamil Nadu Act 26 of 1963.

(ii) Though the District Revenue Officer, vide proceedings dated 23.05.2003, issued a direction to the Tahsildar to carry out mutation in terms of the order passed by the Assistant Settlement Officer, the same was not implemented. However, the authorities attempted to interfere with the appellant/writ petitioner's possession.

(iii) Hence, the appellant/writ petitioner had filed W.P(MD)Nos.977 and 978 of 2006. It was then found that the Assistant Settlement Officer, who had granted patta, came under the serious cloud and a criminal case was registered against him and the appellant/writ petitioner was also made as co-accused. The said Writ Petitions were dismissed by this Court on 24.09.2008.

<https://hcservices.ecourts.gov.in/hcservices/>

(iv) While so, the Tahsildar vide proceedings, dated 20.02.2008



called upon the appellant/writ petitioner to remit a sum of Rs.10,42,650/- in respect of the disputed survey numbers and the appellant/writ petitioner also deposited the said amount to the treasury through the State Bank of India on 28.04.2008.

(v) In the meantime, the appellant/writ petitioner was informed that the lands in question were taken over by the Government for the purpose of construction of Government girls hostel for Most Backward Class students. Hence, the appellant/writ petitioner was constrained to file the Writ Petition.

(vi) The learned Single Judge had dismissed the Writ Petition on the ground that a hostel for girls belonging to Most Backward Classes had been constructed and it is ready for occupation. Aggrieved over the same, the appellant/writ petitioner had preferred the present Writ Appeal.

3. Heard the learned counsel appearing for the appellant/writ petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. It is seen from the counter-affidavit filed by the fourth respondent in the Writ Petition that after sub-division, the disputed lands were transferred to Most Backward Classes Department by the proceedings of the District Collector, dated 27.12.2011 and the construction of Government girls hostel for Backward Classes had been constructed. Hence the claim of the appellant/writ petitioner for patta in respect of the disputed survey number could not be granted. The then Tahsildar, Karaikudi had sent a communication to the appellant/writ petitioner to deposit a sum of Rs.10,42,650/- towards market value in respect of Survey Nos.922/9, 10 and 11. As the said order was without any authority or without any sub-division, charges were framed against the then Tahsildar. As already the appellant/writ petitioner had deposited the amount, the Tahsildar, Karaikudi by his memo, dated 27.07.2012, informed the appellant/writ petitioner to furnish her Bank account number for the purpose of refunding the amount of Rs.10,42,650/- remitted by her. Till today, the Bank account number has not been furnished by the appellant/writ petitioner.

5. As the Tahsildar had filed a counter-affidavit stating that on furnishing the Bank account number, the amount remitted by the appellant/writ petitioner would be refunded, the appellant/writ petitioner is directed to furnish the Bank account number to the fourth respondent within a period of two weeks from the date of receipt of copy of this Judgment and the fourth respondent is directed to deposit the sum of Rs.10,42,650/- within a period of four weeks thereafter. This Judgment will not preclude the appellant/writ petitioner from taking any other appropriate remedy.



6. With the above observations, the Writ Appeal is disposed of. No costs.

Sd/-

Assistant Registrar (RTI)

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/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Revenue Officer,
Sivagangai District,
Sivagangai.
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5. The District Backward Classes Welfare Officer,
Sivagangai District,
Sivagangai.
6. The District Adi-drauida Welfare Officer,
Sivagangai District,
Sivagangai.

+ 1 CC TO Mr.T.Antony Arul Raj, ADVOCATE IN SR No. 86597
+1 + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR.NO.86603.

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W.A (MD) No.310 of 2015
24.09.2018