



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 14.11.2018

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22779 of 2018

K.M.Shajakhan

..Petitioner

Vs

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Marungapuri Taluk Office,
Marungapuri,
Trichy District.

3.Chinnammal

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to cancel the patta on the name of the third respondent and issue the patta in the Petitioner's name with regard to the lands in S.No.207/15, measuring an extent of 75 cents situated at Valanadu Village, Marungapuri Taluk, Trichy District based on the Petitioner's representation, dated 18.8.2018.

For Petitioner :Mr.G.Gomathi Sankar

For Respondents :Mr.S.Dhayalan
Govt.Advocate

ORDER

The Petitioner has prayed for issuance of a Writ of Mandamus directing the second respondent to cancel the patta on the name of the third respondent and issue the patta in the Petitioner's name with regard to the lands in S.No.207/15, measuring an extent of 75 cents situated at Valanadu Village, Marungapuri Taluk, Trichy District based on the Petitioner's representation, dated 18.8.2018.

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

2.Mr.S.Dhayalan, learned Government Advocate takes notice for



the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The Petitioner's case is that he is owning lands measuring an extent of 1 acre and 26 cents in S.No.205/15, in Valanadu Village and in other survey numbers to an extent of 13 acres and 74 cents belongs to one Palachamy Kone and others and they were enjoying the said property. Subsequently the Petitioner's father purchased 50 cents of land in S.No.207/15 by way of registered sale deed in Document No.335 of 1972 and also purchased another 25 cents of land in the very same survey Number by way of registered sale deed in Document No.601/1973 and in total, they are in possession of 3 acres and 75 cents of land. The Petitioner's family owns 4 ½ acres of land in S.No.207/15 and in total they have purchased lands from various parties and one Rahamathullah is owning 3 acres of property adjoining the Petitioner's land. The Petitioner's father and the said Rahamathullah in total owns 7.5 acres of land and they were in possession and enjoyment of the same. Meanwhile, without their knowledge and after the demise of the Petitioner's father and the said Rahamathullah, their legal heirs sold 75 cents of land in favour of the third respondent in S.No.207/15. Therefore the third respondent approached the Petitioner to execute a sale deed in respect of the said land, for which, he had refused. Till date, the Petitioner is in possession of the said land and wrongly, sale deed has been executed in favour of the third respondent by the legal heirs of Rahamathullah and Petitioner's father. Since the third respondent started pressurizing and interfering with the possession of the Petitioner, the Petitioner has filed O.S.No.213 of 2014, on the file of the District Munsif Court, Manapparai for the relief of injunction against the respondents. The third respondent herein was a defendant in the said suit and he was set exparte and an exparte decree was passed on 13.6.2016. Till date, the third respondent has not filed any petition to set aside the exparte decree or preferred an appeal against the exparte judgment passed by the said Court. The Petitioner in view of the possession and in view of the ownership, after obtaining a decree from the Court below, made representation to the second respondent to cancel the patta which stands in the name of the third respondent and to issue patta in his name with regard to 75 cents in S.No.207/15. But the said representation was not considered by the second respondent and hence the Petitioner has approached this Court seeking interference by this Court.

4. In view of the above said facts and circumstances, this Court directs the second respondent to consider the case of the Petitioner based on the representation submitted by him on 18.8.2018 and on the basis of documents and materials to be produced by the Petitioner herein, decide the issue after giving an opportunity of hearing to the Petitioner and other interested parties, if any, and pass appropriate orders in accordance with Law, within a period of 12 weeks from the date of receipt of a copy of this order.



5. With the above directions, the Writ Petition stands disposed of. No costs.

Sd/
Assistant Registrar (AS)

/True copy/

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Sub Assistant Registrar (CS-III)

To

1. The District Collector,
Trichy District,
Trichy.

2. The Tahsildar,
Marungapuri Taluk Office,
Marungapuri,
Trichy District.

+1cc to Mr. G. GOMATHI SANKAR, Advocate, SR.No. 95267

+1cc to M/s. Special Government Pleader, SR.No. 95391

W.P (MD) No. 22779 of 2018

VSN

KK/RSK/SAR-3/27.12.2018/3P-5C