

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WP. No. 563 of 2019

M.Arumugam

..Petitioner

Vs.

1.The District Collector
Collector Office Complex
Villuppuram, Villuppuram District.

2.The Sub Collector
Jakkampettia
Tindivanam.

3.The Special Thasildar
Town Planning
Thasildar Office Complex
Nehru Street, Tindivanam.

4.The Town Serveyer
Tindivanam Municipality
Municipality Office
Tindivanam.

5.R.Keerthi Varman

.. Respondents

(R5 impleaded vide order dated 18.07.2019
in W.M.P. No. 20582 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forthwith directing the Respondents 1 to 4 herein to transfer the patta in the name of Writ Petitioner Door Nos. 12 and 13 Vanipillayar Kovil Street, Tindivanam Town, pursuant to the application submitted by the Writ Petitioner to the Third Respondent on 23.03.2017 which orders was passed by the Sub-Collector the Appellate Authority by his order O.M.(A.2)494/2018 dated 10.03.2018 for transfer the patta in the name of Writ Petitioner on the basis of application dated 23.03.2017 subsequently direct the Third Respondent to transfer the name.

For Petitioner : Mr. K.Sivakumar

For Respondents : Mr. M.Karthikeyan for R1 to R4
1 to 4 Additional Government Pleader

For R5 : Mr.R.Keerthi varman

O R D E R

The Writ Petition has been filed for directing the First to Fourth Respondents to transfer the patta in the name of Petitioner pursuant to the application dated 23.03.2017 submitted by the Petitioner to the Third Respondent based on the order No. O. M.(A.2)494/2018 dated 10.03.2018 passed by the Second Respondent for transferring the patta in the name of Petitioner and for consequential directions.

2. The Third Respondent has filed Counter Affidavit dated 08.07.2019, in which it has been stated as follows:-

"3. The Third Respondent submit that the Petitioner has purchased the property in Door Nos.12 and 13 of Vanipillayar Koil Street, Tindivanam from Annammal W/o Annadurai vide the sale deed dated 01.06.2016 in Document No.746 of 2016 on the Joint Sub-Registrars Office, Tindivanam. The said property is mentioned as Town Survey No.50 (R.S.No.63/1 part) - Government Natham - 00211 Sq.Mtrs - Radhabai W/o Rathnam and both were mentioned as belonging to Angammal Municipal Register Column and the said Angammal in the mother of Radhabai.

4. The Third Respondent submit that the Petitioner mentioned that the said property has been mortgaged by the owner Angammal and she borrowed a sum of Rs.2,000/- from Govintha Chettiyar in 1966 and has executed a promissory note to his father, also he mentioned that the said Govindhasamy Chettiyar assigned the promissory note to one Mr. Dakshinamoorthy and later Mr.Dakshinamoorthy filed a suit in O.S.No.364/1967 against Angammal and her daughter Radhabai on the file of the District Munsif Court, Tindivanam. The said suit was decreed in favour of Mr. Dakshinamoorthy and he also the filed an Execution Petition for attachment of the said property in E.P.No.618/1968. It is further submitted that the property was attached and brought for sale and Mr.Dakshinamoorthy was

successful bidder in the auction and sale certificate was issued on 21.04.1969.

5. It is submitted that the decree holder Mr.Dakshinamoorthy filed a suit in O.S.No.32 of 1984 of the Principal Sub Court, Tindivanam prayed for declaration and recovery of possession in respect of the said property. Then the Suit was transferred and re-numbered as O.S.No.464/2009 in the Principal District Munsif, Tindivanam and it is sincerely submitted that the said O.S.No.464/2009 is still in pending.

6. The Petitioner further mentioned that the said property was sold to one Annammal by the Legal representatives of Dakshinamoorthy by the way of registered sale deed dated 15.03.2014 and since it was objected by Rathabai, the purchaser Annammal filed a Writ Petition No.9064/2014 to register the document and Radhabai ammal filed Writ Petition in W.P.No.11441/2014 to issue appropriate instructions to Sub Registrar to prohibit the registration any document regarding with the said property and W.P.No. 9064/2014 and the sale deed in favour of Annammal was registered.

7. It is submitted that the said property was purchased by the Petitioner by way of sale deed from the said Annammal, vide document No.746 of 2016 of Joint Sub Register Office, Tindivanam on 01.06.2016 and then the Petitioner had filed an application for Patta transfer. Then the Third and Fourth Respondents scrutinized the petition and made field inspection. After doing the field inspection. After doing the field inspection it came to know that the said property is still in O.S.No.464 of 2009 of the Principal District Munsif, Tindivanam regarding with the said property is still pending, hence it is humbly submitted that the Respondent cannot at present make changes in the Patta pending Civil Suit.

8. It is sincerely submitted that since the property is not in possession of the Petitioner and O.S. No. 464 of 2009 of the Principal District Munsif, Tindivanam is in still pending, the Third Respondent could not be able to do the patta name transfer in favour of the Petitioner."

In view of the aforesaid cogent reasons stated by the Third Respondent for the inability to transfer the patta into the name of the Petitioner, the same cannot be faulted and deserves to be accepted.

3. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

dna
To

1.The District Collector
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4.The Town Serveyer
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Municipality Office
Tindivanam.

+2ccs to Mr.Keerthi varman , Advocate SR.No. 61521

+1 cc to Government Pleader Sr.No. 61885

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A.SK(16/09/2019)

सत्यमेव जयते

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