

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.16654 of 2013

S.Selvam

... Petitioner

-vs-

1.The Thasildar,
Thasildar Office,
Sozhinganallur,
Chennai.

2.The Executive Officer,
Arulmigu Pedari Veerathamman Koil,
Pallikaranai,
Chennai - 600 100.

... Respondents

(R2 impleaded as per order dated
04.07.2013 by KKSJ in M.P. No.
1 of 2013 in W.P. No.16654 of 2013)

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 31.01.2012 and further direct the respondent to change the patta which stands in the name of the temple to the petitioner's name to the property situated in S.No.486 to an extent of 70 cents, in Pallikaranai village.

For Petitioner:: Mr.S.Deivasigamani

For Respondents:: Mr.V.Shanmuga Sundar,
Special Government Pleader
for R1

ORDER

The writ petition has been filed seeking a direction to the respondents to consider the petitioner's representation dated 31.01.2012 and to change the patta, which stands in the name of the temple comprised in S.No.486 measuring to an extent of 70 cents situated at Pallikaranai village, in the petitioner's name.

2.Learned counsel appearing for the petitioner would submit that the properties comprised in S.No.486 measuring to an extent of 70 cents situated at Pallikaranai Village was originally belonged to one Arulmigu Veerthaman Koil. Learned counsel would further submit that from the date of allotment as Poojari Maniam, the petitioner's ancestors were in possession and enjoyment of the above property. While the petitioner's father acting as Poojari in the year 1981, the temple authorities decided to lease the property through public auction. Due to the same, the petitioner's side raised objection. In the meanwhile, the petitioner's father died on 18.07.2006 leaving behind the petitioner, his brothers and sisters as his legal heirs. Even during the lifetime of the petitioner's father, he had objected for leaving the property in a general auction by his communication dated 20.06.1991. After receiving his communication, the representatives of the authorities had stated that there is no possibility of stopping the auction and requested his father to pay the amount and to take the auction. Due to the same, the petitioner's father paid the auction amount of Rs.2,800/- to the temple authorities. According to the learned counsel appearing for the petitioner, originally patta to the said property stands in the name of the petitioner's ancestors and subsequently, the same has been changed into the name of the petitioner's father. After demise of his father, the petitioner has given a representation dated 31.01.2012 to change the patta, which stands in the name of the temple, in his name. As the same has not been considered, the petitioner was advised to come to this Court.

3.A detailed counter affidavit has been filed by the first respondent. Learned Special Government Pleader appearing for the first respondent, reiterating the averments made in para 4 of the counter affidavit, would submit that when the petitioner himself admits that his father had taken the land in question on lease by participating in a public auction from the temple authorities and cultivated the land in 1991 and that the patta stands in the name of the temple, he cannot seek for issuance of patta. Learned Special Government Pleader would further submit that as the family members of the petitioner have become Lessee after taking part in the public auction, the first respondent cannot cancel the patta, which stands in the name of the temple and therefore, the claim of the petitioner cannot be considered.

4.It is seen from records that the writ petition was dismissed as against the second respondent on 05.02.2014.

5.I find some merits on the submission made by the learned Special Government Pleader appearing for the first respondent. When the petitioner, has in paragraph 4 of the affidavit categorically made a submission that the petitioner's father has become Lessee by making a payment of Rs.2,800/- to the temple

authorities, the petitioner is not entitled to get patta, which stands in the name of the temple. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

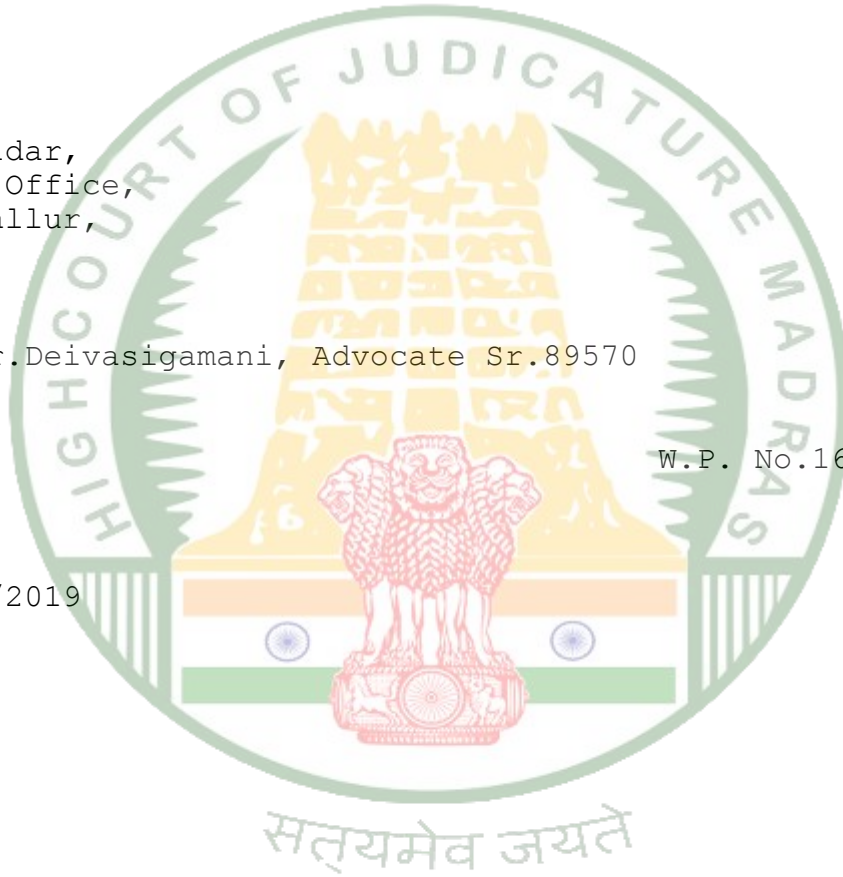
To

The Thasildar,
Thasildar Office,
Sozhinganallur,
Chennai.

+1cc to Mr.Deivasigamani, Advocate Sr.89570

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