

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.33466 of 2013

G.Chinnapillai Ammal

.. Petitioner

Vs

The Tahsildar,
Pochampalli and Taluk,
Krishnagiri District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file fo the respondent made in Na.Ka.No.3851/2010, dated 18.10.2013 and quash the same and consequently direct the respondent to issue the house site patta to the petitioner for the above mentioned land in Survey No.872/1, bearing Door No. Old No.45 MGR Street, Velapattipost, Pochampalli Taluk, Krishnagir District.

For Petitioner : Mr.P.Chandrasekaran
for M/s.K.Balaji & S.Anburaja

For Respondent : Mrs.P.Rajalakshmi, AGP

ORDER

The present writ petition is directed against the impugned proceedings dated 18.10.2013 of the respondent/the Tahsildar, Pochampalli Taluk, Krishnagiri District, refusing to grant patta in favour of the petitioner.

2. Mr.P.Chandrasekaran, learned counsel for the petitioner submitted that the petitioner, who is now aged about 76 years, is a widow and she has been in peaceful possession and enjoyment of the property bearing Survey No.872/1, MGR Street, Velampatti Village, Krishnagiri District. After the death of her husband, she has been running an Idli shop to eke-out her livelihood in the place in question. She had also obtained an electricity service connection in the year 1996 and this apart, when her husband was alive, license was obtained on 01.04.1996 to run the Idli Shop. After the death of her husband on

31.08.2003, the petitioner has been making several representations requesting issuance of patta in respect of the land in question. However, the respondent has rejected her request on the ground that she was running an Idli shop besides residing in the subject land.

3. Continuing further, it is argued that in view of refusal of her genuine request, the petitioner, being an aged widow, has been put to serious and grave prejudice. It is further submitted that when the respondent has considered a similar request in favour three other persons, namely, Gowri, Suseela and Kalpana, for grant of patta in respect of the same survey number, they cannot discriminate the petitioner alone, who is not only aged person, but also a widow, therefore, the refusal of the respondent to grant patta is not only unreasonable, but also discriminatory in nature. On this count, he prayed for allowing the writ petition.

4. Per contra, learned Additional Government Pleader appearing for the respondent submitted that the petitioner, being an owner of Idli Shop running in the same place where she is residing, is not entitled to get patta, since the patta can be issued only to the residential premise, not to any shop. If the petitioner gives an undertaking that the land in question will be utilized only for residential purpose, then the respondent will consider her request.

5. But, this Court is unable to accept the above said contention. It is an admitted fact that the petitioner, aged about 76 years now, is a widow. It is the case of both parties that when the petitioner's husband was alive, they were granted license on 01.04.1996 to run the Idli Shop and thereafter, both the petitioner and her husband were eking-out their livelihood only by running Idli shop. Now, regrettably, the petitioner's husband also died on 31.08.2003. After the death of her husband, without any assistance, the petitioner has been eking-out her livelihood only by running Idli shop. If she gives an undertaking that she will not run Idli shop, she will not be able to lead her life, therefore, there is no harm for issuing patta for the widow to run Idli shop as it is going to take care of her life. It is also to be noted that in the same survey number, the respondent has granted patta in favour of three similarly placed persons, namely, Gowri, Suseela and Kalpana. That shows that the petitioner alone has been discriminated arbitrarily and the Article 14 of the Constitution of India does not permit such indiscrimination. Therefore, in such view of the matter, the impugned order passed by the respondent refusing to grant patta to the petitioner alone, is liable to be set aside and accordingly, the same is set aside.

6. In fine, for reasons stated above, the writ petition is allowed and the respondent is directed to grant patta in favour of the petitioner within a period of four weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

rkm

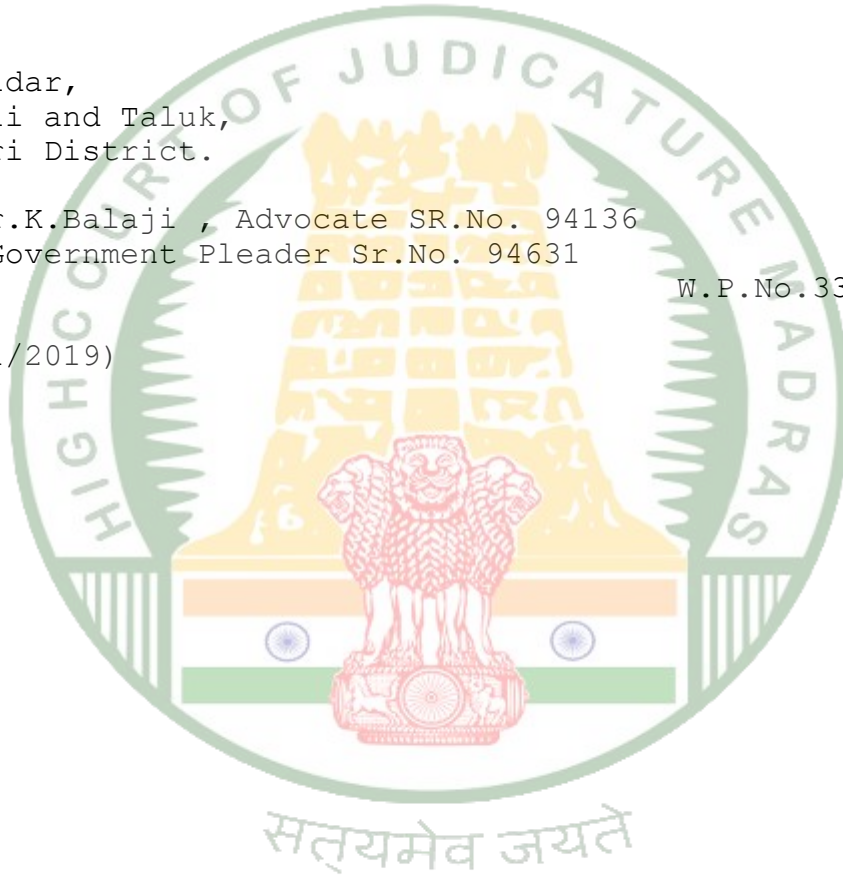
To

The Tahsildar,
Pochampalli and Taluk,
Krishnagiri District.

+1cc to Mr.K.Balaji , Advocate SR.No. 94136
+1 cc to Government Pleader Sr.No. 94631

W.P.No.33466 of 2013

gj (CO)
A.SK(27/11/2019)



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