

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.27427 of 2019

G.Anbalagan

.. Petitioner

/versus/

1.The Revenue Divisional Officer,
R.D.O's Office,
South Chennai Zone,
Guindy,
Chennai - 600 032.

2.The Special Tahsildar,
O/o.The Special Tahsildar,
Corporation of Chennai Complex,
Alandur, Chennai - 600 016.

3.Mariappan

4.Subramani

5.Chengalvaroyan

6.Ranganathan

7.Karunakaran

8.Saroja

9.Vijaya

10.Mani

11.Geetha

12.Augstin

13.Jaya

14.Kanchana

15.Sumathi

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to pass and consider the application given by the petitioner on 20.06.2019 and consequential relief by way of direction to cancel the patta issued in favour of the 3rd to 15th respondent pertaining to petition property situated at Old No.162A, New No.70A, Mastan Gori Street, Aambakkam, Chennai - 600 088, Survey No.192/5, Sub-Field No.46, Block No.17, Ward No.G, Adambakkam, measuring an extent of 5 1/2 grounds (0.0980.0 Sq.meter).

For Petitioner :Mr.T.Ramachandran

For Respondent :Mr.D.Raja,
Additional Government Pleader
for R1 and R2

O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.T.Ramachandran, learned counsel appearing for the petitioner and Mr.D.Raja, learned Additional Government Pleader, who takes notice for respondents 1 and 2.

3. The prayer in the writ petition is to issue a Writ of Mandamus directing the 1st and 2nd respondents to pass and consider the application given by the petitioner on 20.06.2019 and consequential relief by way of direction to cancel the patta issued in favour of the 3rd to 15th respondents pertaining to petition property situated at Old No.162A, New No.70A, Mastan Gori Street, Aambakkam, Chennai - 600 088, Survey No.192/5, Sub-Field No.46, Block No.17, Ward No.G, Adambakkam, measuring an extent of 5 1/2 grounds (0.0980.0 Sq.meter).

4. The petitioner herein claims right over the property which originally stood in the name of Munusamy now transferred in the name of respondents 3 to 15.

5. According to the petitioner, Munusamy left behind Gopal as one of his legalheir, who is the father of the petitioner. The said Gopal born through the first wife of Munusamy and rest of respondents 3 to 15 are the issues born through the second wife of Munusamy.

6. The contention of the petitioner is that after the death of Munusamy, his father Gopal ought to have got the share in the property and through him he should have inherited the said share. However, respondents 3 to 15, without proper enquiry had transferred the patta in the name of respondents 3 to 15. When he made a representation to the Governor of Tamil Nadu on 27.02.2018, the same was not considered and thereafter, he found through website that the property has been transferred in the name of respondents 3 to 15 and the patta as of now stands in their names.

7. The learned counsel appearing for the petitioner has also enclosed ''A'' Register of the property. The first respondent infact on receiving the representation of the

petitioner through the Governor Office, has perused the records and has intimated the petitioner herein vide communication dated 13.03.2018 that as per the Land Register, the property presently stands in the name of respondents 3 to 15. The right of the petitioner in the property could not be ascertained for want of documents. So if the petitioner has any right in the property, he can ascertain the same through the civil Court and then seek for patta.

8. As far as the petitioner is concerned, his case is that the property originally jointly stood in the name of Munusamy, Kannan and Ganesan. Later, on the demise of Munusamy, without proper enquiry the property has been transferred to the legal heirs of Munusamy born through his second wife. In the typed set of papers, the petitioner has enclosed legal heir certificate of Gopal showing the petitioner, his mother, brother and sisters are legal heirs of Gopal. The petitioner has not furnished any document how he trace the lineage to Munusamy through Gopal. For the said reason, precisely the first respondent has stated that without evidence and material records, the request of the petitioner cannot be entertained and to ascertain his right he has to approach the Civil Court.

9. In the light of the material placed before this Court and the reasoning given by the first respondent, this Court finds that if the petitioner has any right over the property as one of the descendant of Munusamy, he should furnish adequate documents for the authorities to consider. In the absence of the documents, the authorities cannot on their own transfer the patta in the name of the petitioner. The earlier action of the respondents transferring the patta in the name of respondents 3 to 15 cannot be cancelled or altered without proper evidence. The first respondent has rightly instructed the petitioner herein to approach the civil Court to establish his rights.

10. Hence, this writ petition is disposed of with liberty to the petitioner herein to get civil Court decree or to produce any document to prove his lineage from Munusamy, who is the original pattadar along with Kannan and Ganesan. On such production of documents, the respondents shall consider the request of the petitioner. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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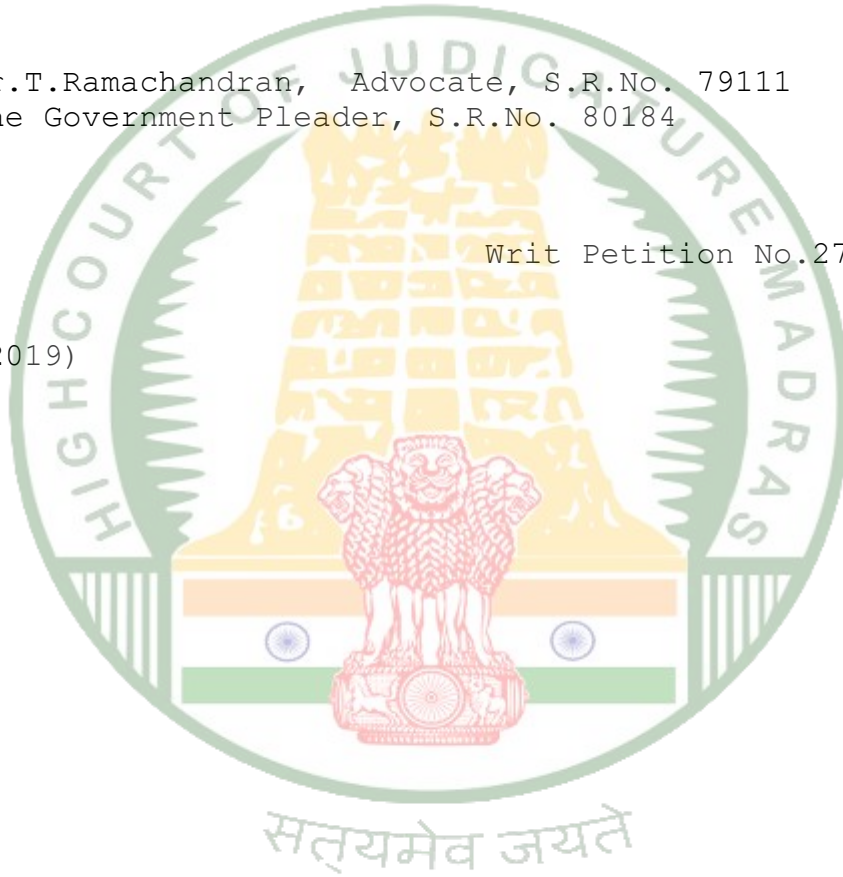
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+1cc to Mr.T.Ramachandran, Advocate, S.R.No. 79111
+1cc to the Government Pleader, S.R.No. 80184

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SJ(CO)
GN(17/10/2019)



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