

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.26707 of 2019
and W.M.P.No.26089 of 2019

S.Sarasu

... Petitioner

/versus/

- 1.The District Collector,
Tiruvannamalai Town,
Tiruvannamalai District.
- 2.The Revenue Divisional Officer,
Tiruvannamalai Town,
Tiruvannamalai District.
- 3.The Tahsildar,
Thandaram Pattu City and Taluk,
Tiruvannamalai District.
- 4.The Village Administrative Officer,
Rayandapuram Village,
Thandaram Pattu Taluk,
Tiruvannamalai District.

5.Chandirammal

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to grant patta to the petitioner in respect of the lands comprised in Survey Nos.195/2 and 194/2 measuring an extent of 11 cents and 89 cents respectively, situate in Rayandapuram Village, Dhaanipaadi Sub Registration District, Tiruvannamalai District, pursuant to the petitioner's representation dated 17.08.2019.

For petitioner : Mr.P.Valliappan

For Respondents : Mr.D.Raja, AGP

O R D E R

The petitioner herein relying upon the sale deed executed by the 5th respondent in her favour on 13.06.2012 in respect of Survey Nos.195/2 and 194/2 measuring an extent of 11 cents and 89 cents respectively, situated at Rayandapuram Village,

Tiruvannamalai District has sought for issuance of patta in her name on 17.08.2019. The respondents after receiving the representation for issuing patta have not acted upon, hence the present writ petition is filed seeking issuance of Mandamus directing the respondents 1 to 4 to consider her representation and grant patta in her favour.

2. The case of the petitioner is that the patta for the said land still stands in the name of her vendor/5th respondent herein. In spite of several representations made by her during Jamabandhi, the patta has not been transferred in her name.

3. Whereas in the counter filed by the 3rd respondent, it is stated that land in Survey Nos.195/2 and 194/2 measuring an extent of 11 cents and 89 cents has been classified as depressed class land in revenue account of Rayandapuram village. Only in favour of depressed class persons, patta can be issued. Earlier the land was assigned in favour of the 5th respondent and patta No.1051 was issued to her. The 5th respondent has mortgaged that land in favour of one Srinivasan under the registered mortgage deed dated 17.02.2005 and subsisting of the mortgage, the 5th respondent has transferred the property in favour of the petitioner, who is none other than the W/o.Srinivansan, mortgager. The petitioner does not belong to depressed class. Therefore, Chandirammal/5th respondent cannot alienate the property to non depressed class person. It amounts to violation of assignment condition. Therefore, the petitioner is not entitled for change of patta based on the sale deed alleged to have been executed by Chandirammal in favour of the petitioner on 18.07.2012.

4. In the course of the arguments, the learned counsel for the petitioner submits that pending writ petition, even without affording an opportunity, the 3rd respondent has rejected the representation. If it is so it is non est in law. When the representation of the petitioner pending consideration and the reason stated in the counter affidavit is correct, the 3rd respondent ought to have given opportunity to the petitioner herein and then should have passed order. Without hearing the petitioner, the order has been passed on the representation of the petitioner to change the patta. To that extent, I hold that any order passed without giving opportunity to the petitioner on the representation is bad in law and liable to be struck down.

5. As far as the prayer in the writ petition is concerned, the grievance of the petitioner is that her representation dated 17.08.2019 has not been disposed of and no opportunity has been given to her, to substantiate her request. Therefore, it is suffice to direct the 3rd respondent

herein to cause notice to the petitioner as well as the 5th respondent and pass appropriate orders in accordance with law within a period of three months from the date of receipt of copy of this order.

6. With the above observation, this writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl

To

- 1.The District Collector,
Tiruvannamalai Town,
Tiruvannamalai District.
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- 3.The Tahsildar,
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- 4.The Village Administrative Officer,
Rayandapuram Village,
Thandaram Pattu Taluk,
Tiruvannamalai District.

+lcc to Mr.p.Valliappan, Advocate Sr.97294

+lcc to the Government Pleader Sr.97559

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gmr[co]
srg 26/12/2019