



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2019

CORAM

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.15445 of 2019

Sundara Moorthy

...Petitioner

-Vs-

1.The Revenue Divisional Officer,
Kumbakonam, Thanjavur District.

2.The Tahsildar,
Thiruvidaimarudur Taluk Office,
Thiruvidaimarudur,
Thanjavur District.

3.Malarvizhi

...Respondents

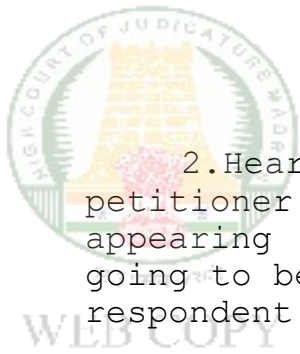
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to cancel the patta on the name of the third respondent's husband namely Rajendran and issue the patta in the petitioner's name with regard to Survey No.217/34A situated at Vinayagan Street Village, Thiruvidaimaruthur Taluk, Thanjavur District based on the petitioner's representation dated 26.12.2018.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.B.Bhagawathi (For R1 & R2)
Government Advocate

ORDER

The prayer in this writ petition is for a Writ of Mandamus, to direct the respondents 1 and 2 to cancel the patta in the name of the third respondent's husband, namely, Rajendran and issue the patta in the petitioner's name with regard to Survey No.217/34A situated at Vinayagan Street Village, Thiruvidaimaruthur Taluk, Thanjavur District, based on the petitioner's representation, dated 26.12.2018.



2. Heard Mr.G.Gomathi Sankar, learned counsel appearing for the petitioner and Mr.B.Bhagawathi, learned Government Advocate appearing for the respondents 1 and 2. Since no adverse order is going to be passed against the third respondent, notice to the third respondent is dispensed with.

3. The grievance of the petitioner is that for the land in question i.e., at Survey No.217/34A, situated at Vinayagan Street Village, Thiruvidaimaruthur Taluk, Thanjavur District, patta was wrongly given in the name of the husband of the third respondent sometime in the year 2012 by the second respondent, as against which, the petitioner preferred an appeal before the first respondent on 26.12.2018. Hence, the learned counsel appearing for the petitioner would submit that, if the said appeal preferred by the petitioner is directed to be considered and decided, on merits, within a time frame to be stipulated by this Court, the petitioner would be satisfied.

4. I have heard Mr.B.Bhagawathi, learned Government Advocate, appearing for the respondents 1 and 2, who would submit that, while filing an appeal before the first respondent, simultaneously, the petitioner seems to have approached the civil Court for getting remedy. When the petitioner approached the civil Court one way or other, the issue therein would be decided by the competent civil Court and hence, the reviewing authority i.e., the first respondent cannot take a decision on the appeal preferred by the petitioner.

5. I have considered the said submissions made by the learned counsel on either side.

6. If at all, the petitioner approached the competent Civil Court to get any remedy, no doubt, the civil Court is the competent authority to decide the title pertaining to the property. However, insofar as the alleged reason for issuance of patta wrongly given in the name of the third respondent, as alleged by the petitioner, rectification can be done, if the grievance of the petitioner is genuine and in this regard, under the Patta Passbook Act, the appeal would lie only before the first respondent i.e., the concerned Revenue Divisional Officer, to whom, rightly the petitioner made an appeal on 26.12.2018. Therefore, the same can be decided on merits. While deciding the same, the first respondent can also consider the pendency of the civil suit and the outcome also. At any rate, the said appeal filed by the petitioner dated 26.12.2018 under the said Act can be decided, on merits within a time frame. Therefore, this Court is inclined to dispose of this writ petition with the following order:-

"that the first respondent shall consider the appeal/revision filed by the petitioner dated 26.12.2018 and decide the same on merits and in accordance with law, or course, after giving an opportunity of being heard to the petitioner as well as the third respondent,



by giving separate notices to them and pass final order thereon, within a period of eight weeks from the date of receipt of a copy of this order."

No costs.

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Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Revenue Divisional Officer,
Kumbakonam, Thanjavur District.

2.The Tahsildar,
Thiruvidaimarudur Taluk Office,
Thiruvidaimarudur,
Thanjavur District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-74603[F] dated 10/07/2019)

+1 CC to M/s.SPL GP (SR-74770[F] dated 11/07/2019)

W.P. (MD) No.15445 of 2019
10.07.2019

rmk
JM/29.08.2019/3P/5C