



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P. (MD)No.17724 of 2019

WEB COPY

Mathiyalagan

... Petitioner

Vs.

1.The District Collector,
Thanjavur District.

2.The District Revenue Officer,
Thanjavur District.

3.The Revenue Divisional Officer,
Thanjavur District.

4.The Tahsildar,
Thanjavur District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in Tha.Pa.126/2019/B6, dated 12.06.2019 and quash the same as illegal and arbitrary and in consequence thereof, direct the respondents to issue patta to the petitioner for the property comprised in S.F.No.228/4 nanjai 1 acre 46 cent of Melaveli Village, Thanjavur Taluk and District.

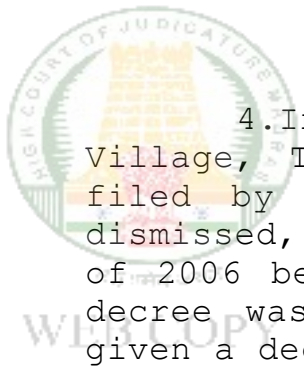
For Petitioner : Mr.P.Gananapthi Subramanian
For Respondents : Mr.Bhagawathi, G.A.

O R D E R

The prayer sought for in this Writ petition is for a Writ of Certiorarified Mandamus, to quash the proceedings of the 4th respondent in Tha.Pa.126/2019/B6, dated 12.06.2019 as illegal and arbitrary and direct the respondents to issue patta to the petitioner for the property comprised in S.F.No.228/4 nanjai 1 acre 46 cent of Melaveli Village, Thanjavur Taluk and District.

2.Heard Mr.P.Ganapathi Subramanian, learned counsel for the petitioner and Mr.Bhagawathi, learned Government Advocate appearing for the respondents.

3.With the consent of both sides, this Writ petition is disposed of at the admission stage itself.



4. In respect of the property at S.No.228/4 at Melaveli Village, Thanjavur Taluk, Thanjavur District, a civil suit was filed by one Neelambal and since the said suit having been dismissed, an appeal was filed by the said individual in A.S.No.37 of 2006 before the Sub Court, Thanjavur, wherein a judgment and decree was made on 13.07.2009, whereby the Appellate Court has given a declaratory decree insofar as the ownership of the land to and in favour of the plaintiff / appellant and according to the learned counsel for the petitioner, the said judgment made by the First Appellate Court has become final and there was no appeal filed against the said order. In the said judgment and decree, the District Collector as well as the Tahsildar concerned are the parties.

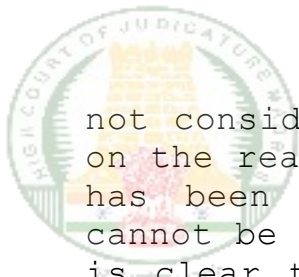
5. Subsequently, it seems that the said land has been bequeathed by way of a Will to the petitioner. Therefore, the petitioner stepped into the shoes of the said plaintiff - Neelambal, who was the original owner of the land and in whose favour the declaratory decree has been made by the First Appellate Court, had approached the fourth respondent / Tahsildar for getting patta. However, the said request of the petitioner had been rejected by the fourth respondent by the impugned order dated 12.06.2019 where the fourth respondent stated that as per the UDR survey, the land in question had been classified as Government Poramboke Anadeenam and therefore, patta cannot be given. As against the said order dated 12.06.2019, this Writ petition has been filed.

6. I have heard the learned Government Advocate appearing for the respondents, who would submit that since as per the UDR survey, the land has been classified as Government Poramboke Anadeenam, the petitioner cannot seek for patta and therefore, on that reason the request of the petitioner has been rightly rejected by the fourth respondent. Therefore, the same need not be interfered with.

7. I have considered the said submission made by both sides and perused the materials placed before this Court.

8. As has been referred to above, there has been a civil court decree in the year 2009 itself in respect of the very same property, which has already been declared as the property belongs to one Neelambal, who is the original owner of the property and bequeathed the same by way of Will to and in favour of the petitioner and therefore, the petitioner stepped into the shoes of the original owner and sought for patta on the strength of the civil court decree.

9. However, in the impugned order, the fourth respondent has



not considered the observation of the civil court decree and only on the reason that under the UDR survey since the land in question has been classified as Government Poramboke Anadeenam, patta cannot be granted and accordingly, it was rejected. Therefore, it is clear that the fourth respondent has not considered the civil court decree passed by the First Appellate Court referred to above before deciding the plea of the petitioner for grant of patta.

10.In that view of the matter, this Court feels that the impugned order can very well be assailed successfully and the matter can very well be remanded to the fourth respondent for reconsideration.

11.In that view of the matter, this Court is inclined to pass the following order:
That the impugned order is quashed and the matter is remitted back to the fourth respondent for reconsideration. While reconsideration, the fourth respondent shall take into account the civil Court decree passed by the Appellate Court namely, Sub Court, Thanjavur in A.S.No.37 of 2006 dated 13.07.2009 and based on which, after giving an opportunity of being heard to the petitioner the issue can very well be decided on merits and final orders can very well be passed, within a period of 6 weeks from the date of receipt of a copy of this order.

12.With this direction, this Writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (RECORD)

// True Copy //

Sub Assistant Registrar(CS)

Nbj

To

1.The District Collector,
Thanjavur District.

2.The District Revenue Officer,
Thanjavur District.

3.The Revenue Divisional Officer,
Thanjavur District.



4.The Tahsildar,
Thanjavur District.

+1 CC to MR.P. GANAPATHI SUBRAMANIAN, Advocate (SR-81435[F] dated
13/08/2019)

+1 CC to SPL GP (SR-81812[F] dated 14/08/2019)

W.P. (MD)No.17724 of 2019
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KM/ (27.12.2019) 4P 7C