

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.03.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.6836 of 2020

R.Saraswathi

Petitioner

vs.

1. The District Collector,
Salem District.

2. The Tahsildar,
Omalur Taluk, Salem District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 08.03.2019 and to cancel the patta in the name of K.C.Radha in Patta No.686 and to issue fresh patta in the name of the petitioner R.Saraswathi and her son R.Radhakrishnan, within a stipulate time fixed by this Court.

For Petitioner : Ms.S.Vasavi Sridevi

For Respondents: Mr.E.Balamurugan

Special Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the 2nd respondent to consider the representation made by the petitioner to transfer the patta in favour of the petitioner pursuant to the decree passed in favour of the petitioner in O.S.No.326 of 2004.

2.The case of the petitioner is that the subject property originally belonged to the family of the petitioner's husband and he got a portion of it by virtue of partition deed dated 28.03.1969. It is the further case of the petitioner that the husband of the petitioner was cultivating the said land. He died in the year 1992. The petitioner has further contended that her brother-in-law and sister-in-law and other legal heirs had created and fabricated documents and they also sold the portion of the property that was allotted to the husband of the petitioner.

3.The petitioner and her son filed a civil suit in O.S.No.414 of 1999 before the Sub-Court, Mettur, for the relief of declaration and delivery of possession. Initially, an ex-

parte decree was passed and it became a subject matter of challenge before this Court in CRP (NPD) No.695 of 2004. Pursuant to the orders passed by this Court, the suit was restored and transferred to the file of the Additional District Court (FTC), Salem and it was renumbered as O.S.No.326 of 2004. The subsequent purchaser was also added as a party in the suit.

4.It is the further case of the petitioner that, the suit was decreed in her favour on merits, by judgment and decree dated 16.12.2006 and thereby, the title of the property was declared in favour of the petitioner and her son. The petitioner, thereafter, approached the 2nd respondent to transfer the patta in favour of the petitioner. Since the same was not considered, the petitioner made a representation on 08.03.2019 and it did not evoke any response. Left with no other alternative, the present writ petition has been filed before this Court seeking for appropriate directions.

5.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

6.The petitioner is seeking for the cancellation of the patta which is standing in the name of the subsequent purchaser and to transfer the patta in the name of the petitioner and her son. This application was made by the petitioner by relying upon Revenue Standing Orders 31 which deals with transfer of registry of holdings. It will be relevant to rely upon Clause 2 of the said Revenue Standing Orders and the same is extracted hereunder:

2.Three classes of transfers. - All legal transfers of property take place either (a) by the voluntary action of the owners or (b) by virtue of decrees of court or revenue sale, or © accrue by succession, and in dealing with three classes of transfers, the following procedure should be observed in altering the registers.

7.It will also be relevant to extract Clause 4 (ii) of Revenue Standing Orders 31 and the same is extracted hereunder:

4.Compulsory transfers of title.
(ii)Transfers under declaratory decrees. - In cases where transfer of registry is sought under a declaratory decree on which no execution can be taken out, ie., where the decree merely declares the title to be vested in a particular person, so as to entitle him to registration, the Collector or other authorized officer may, on production of an authenticated copy of such decree, at once order the transfer of registry.

8.It is clear from the above that, where the transfer of registry is sought for under a declaratory decree, the authorized officer, on production of the authenticated copy of the decree, will have to effect the transfer in the registry.

9.The specific case of the petitioner is that, pursuant to the judgment and decree passed in O.S.No.326 of 2004, the patta will have to be transferred in the name of the petitioner and her son.

10.In view of the above discussion, there shall be a direction to the 2nd respondent to consider the representation made by the petitioner on 08.03.2019 and deal with the same strictly in accordance with law and pass necessary orders after issuing notice to the respective parties, within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 2nd respondent along with a copy of the representation dated 08.03.2019 and a copy of this order.

11.This writ petition is disposed of with the above directions. No Costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

ssr

To

1. The District Collector,
Salem District.

2. The Tahsildar,
Omalur Taluk, Salem District.

+1 cc to the Government pleader sr24119

+1 cc to M/s.Law Vision Adovate sr23632

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