



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.9275 of 2012

and

M.P (MD)Nos.1 to 3 of 2012

A.Irulandi

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Sethupathy Nagar,
Ramanathapuram.

2.The Tahsildar,
Mudukulathur Taluk,
Mudukulathur,
Ramanathapuram District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order in O.Mu.A1.14358.2011 dated 10.11.2011 passed by the second respondent and quash the same as illegal and consequently direct the respondents to grant patta in favour of the petitioner in Survey No.299/1, Nallakurichi Village, Nallakurichi Group, Mudukulathur Taluk, Ramanathapuram District measuring an extent of 2500 square feet with the four boundaries: North - Abiramam Road, South - lands of Mr.Thiruppathisamy, East - Cart Road, West - Backyard of Mr.Rangasamy.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.R.Sethuraman,
Special Government Pleader.

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned order in O.Mu.A1.14358.2011 dated 10.11.2011 passed by the second respondent and consequently, to direct the respondents to grant patta in favour of the petitioner in Survey No.299/1, Nallakurichi Village,



Nallakurichi Group, Mudukulathur Taluk, Ramanathapuram District measuring an extent of 2500 square feet with the four boundaries.

2. According to the petitioner, he is in possession of the property in Survey No.299/1, Nallakurichi Village, Nallakurichi Group, Mudukulathur Taluk, Ramanathapuram District to an extent of 2500 square feet and he constructed a thatched house in the above said property. In the corner of the thatched house, he was running a petty tea shop and also remitting the tax for running the tea stall and also for the house for the past 50 years.

3. In the mean time, the Government announced the scheme of granting free house site pattas for persons, who are in possession for a long time. The petitioner submitted his application before the respondents seeking patta and Nallakurichi Village Panchayat had also passed an unanimous resolution dated 26.06.2011 and thereby granted no objection for grant of house site patta in favour of the petitioner. While so, the second respondent has passed the impugned order dated 10.11.2011, rejecting the claim of the petitioner on the ground that the house site property is a cart track. Thereafter, the second respondent vide order dated 25.06.2012 directed the petitioner to remove the constructions in the property on or before 06.07.2012, failing which he would be evicted on 12.07.2012. The second respondent has not given any notice or opportunity of hearing to the petitioner before passing the order. Challenging the impugned order dated 10.11.2011, the petitioner has filed the present Writ Petition.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner has approached this Court without exhausting the alternative remedy available under Section 12 of the Tamil Nadu Patta Pass Book Act, 1986 by way of filing an appeal. Since the existence of the cart track is being disputed by the petitioner, he can place all the materials before the appellate authority by way of filing an appeal.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. Accepting the contention of the learned Special Government Pleader that there is a specific provision under Section 12 of the Tamil Nadu Patta Pass Book Act, 1986, this Court is of the view that the petitioner has to approach the appellate authority and seek his remedy. Therefore, the Writ Petition filed by the petitioner is not maintainable and the same is liable to be dismissed.



7. Accordingly, the Writ Petition is dismissed. However, liberty is granted to the petitioner to file an appeal before the appellate authority within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ps

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The District Collector,
Ramanathapuram District,
Sethupathy Nagar,
Ramanathapuram.

2. The Tahsildar,
Mudukulathur Taluk,
Mudukulathur,
Ramanathapuram District.

Order made in
W.P. (MD) No. 9275 of 2012
Dated:
29.07.2020

AP(07/08/2020) 3P 3C