



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

CORAM:

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THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.7771 of 2013

and

M.P. (MD) .No.1 of 2013

K.Chandravathanam

... Petitioner

Vs.

1.The Zonal Deputy Tashildar,
Kovilpatti Taluk Office,
Tuticorin District.

2.V.Mariappan

3.K.Kaleeswaran

... 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 pertaining to the impugned order in RTR 546 - 13(Aa2) dated 28.02.2013 on the file of the respondent No.1, and quash the same as illegal and consequently, to direct the 1st respondent to grant patta to the petitioner by considering the petitioner's application dated 29.01.2013 within the time frame fixed by this Court.

For Petitioner : Mr.V.Sakthivel

For R1 : Mr.M.Pandiarajan
Additional Government Pleader

For R2 & R3 : Mr.V.Karthikeyan

ORDER

This Writ Petition is filed to quash the impugned order passed in RTR 546 - 13(Aa2), dated 28.02.2013, by the first respondent and consequently, to direct the first respondent to grant patta to the petitioner by considering the petitioner's application dated 29.01.2013.

2.Heard Mr.V.Sakthivel, learned counsel appearing for the petitioner, Mr.M.Pandiarajan, learned Additional Government Pleader appearing for the first respondent and Mr.V.Karthikeyan, learned counsel appearing for the second and third respondents.

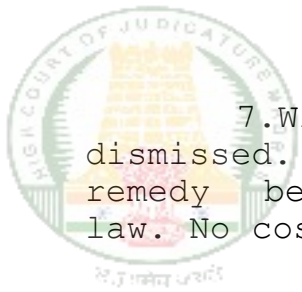


3. According to the petitioner, the land in Survey No.96 measuring an extent of 24 acres and 59 cents, originally belonged to one Jeyaselvi. The said property was purchased jointly by her husband and his brothers for valid consideration by way of a registered sale deed. After purchasing the said lands, the revenue records were mutated in their name and joint patta was given. While so, the petitioner's husband's brother viz., Venkatesh has executed a registered settlement deed in favour the second respondent, in respect of his undivided 1/3rd share over the said property. Thereafter, the petitioner's husband has executed a registered settlement deed in favour of the petitioner in respect of his undivided 1/3rd share over the said property. Pursuant to which, the petitioner applied change of patta in her favour before the first respondent. In the mean time, the respondents 2 and 3 are trying to make encumbrance over the said property. Hence, the petitioner filed a civil suit in O.S.No.13 of 2011 before the District Court, Thoothukudi for partition of her 1/3rd share. The respondents 2 and 3 have also filed a vexatious suit in O.S.No.56 of 2011 before the District Munsif Court, Kovilpatti for the relief of declaration and permanent injunction. In such circumstances, the first respondent has passed an order dated 28.02.2013 rejecting the petitioner's application, without giving any notice to the petitioner. Challenging the said order, the present writ petition is filed.

4. The learned counsel appearing for the petitioner submitted that the first respondent violates the principles of natural justice by not providing an opportunity to the petitioner, before passing the impugned order. Therefore, the impugned order passed by the first respondent is liable to be set aside.

5. The learned Additional Government Pleader appearing for the first respondent submitted that pursuant to the settlement deed, the petitioner has submitted a petition for change of patta in respect of her 1/3rd share over the said property. He further submitted that civil suits are pending with the disputed land on which the petitioner had claimed patta. Therefore, the Tahsildar, has passed an order stating that the said dispute can be resolved only before the competent civil Court.

6. In view of the above, this Court is of the view that challenging the order of Tahsildar, either the petitioner has to accept the order passed by the Tahsildar or if the petitioner has any grievance, she has to file an appeal before the appellate authority to seek her remedy. In view of the fact that an alternative remedy is available to the petitioner under the provisions of the Act, the present writ petition is not maintainable. This Court cannot go into the disputed facts under Article 226 of the Constitution of India.



7. With the above observation, this Writ Petition stands dismissed. However, the petitioner is at liberty to workout her remedy before the appropriate civil Court in the manner known to law. No costs. Consequently, connected M.P is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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

The Zonal Deputy Tashildar,
Kovilpatti Taluk Office,
Tuticorin District.

Copy To: The Section Officer, E.R Section,
Madurai Bench of Madras High Court,
Madurai.

(to return the original impugned order to the petitioner,
after substituting the same.)

+1 CC to M/s.GP (SR-14162[F] dated 17/08/2020)

W.P. (MD) No. 7771 of 2013
14.08.2020

AP(11/09/2020) 3P 4C