



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **12.10.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P (MD) No.14178 of 2020

P.Periyakaruppan @ Deepanraja

... Petitioner

Vs.

The Zonal Deputy Tahsildar,
Madurai North Taluk,
Office of the Tahsildar,
Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records connected to the online order rejecting the petitioner's patta application in application No.2020/0103/24/129400, quash the same and consequently, directing the respondent to transfer the patta in Patta No.118 to his mother, his brother and the petitioner's names in accordance with law within the time stipulated by this Court.

For Petitioner

: Mr.S.Malaikani

For Respondent

: Mr.K.P.Krishnadoss

Special Government Pleader

ORDER

The petitioner seeks to quash the online order, rejecting the petitioner's patta application in Application No.2020/0103/24/129400. The petitioner also sought a direction to the respondent to transfer the patta in Patta No.118 in the name of his mother, brother and himself in accordance with law within the time stipulated by this Court.

2.Heard the learned Counsel appearing for the petitioner and Mr.K.P.Krishnadoss, learned Special Government Pleader, who took notice for the respondents 1 to 3.

3.The learned counsel appearing for the petitioner would submit that the lands comprised in Patta No.118 stands in the name of the petitioner's father, which was derived by way of partition and in the family partition, the brother of the petitioner's father was also given share. However, with the ulterior motive, one Jeyasudha, who is the wife of the brother of the petitioner's father, filed a suit in O.S.No.343 of 2019 before the Subordinate Court, Melur, seeking partition. During the pendency of the suit, the petitioner's father died on 27.09.2019 and hence, the petitioner filed an application before the respondent seeking transfer of patta in his name. But, the respondent had rejected the same without



giving an opportunity of hearing to the petitioner. Hence, the petitioner has come forward with this Writ Petition.

4.The learned Special Government Pleader appearing for the respondent would submit that since a suit is pending in O.S.No.343 of 2019 before the Sub Court, Melur, with regard to the property in question, the respondent has rejected the application of the petitioner seeking transfer of patta.

5.Considering the fact that a civil suit is pending before the Subordinate Court, Melur with regard to the property in question, the order of rejection made by the respondent is perfectly correct. Hence, this Court is not inclined to grant the relief sought for as such and accordingly, the Writ Petition is dismissed.

6.This Court has not lost sight of the fact that there are several Public Interest Litigations pending before this Court with regard to prevention of encroachment, land grabbing, etc, and those cases will not stand in way of the Tahsildar or any other authority to issue patta in the absence of any stay/interim order. There is no bar for the authority concerned to issue patta after verifying the records available in the Sub Registrar's Office and also revenue records, as there is a possibility of manipulation of the extent of land in question in the subsequent sale deeds. It is needless to mention here that the first sale deed must be seen for the boundaries and the width of the road opposite to each and every house must be measured to ascertain whether the same is in accordance with the sanctioned plan and whether the buildings are in accordance with the plan and there is any encroachment. Though the Civil Court can appoint an Advocate Commissioner to ascertain the encroachment, Order XVIII Rule 18 of CPC itself authorises the Court to inspect the site in question, as also, nothing prevents the authority to inspect the place, as the same will ensure removal of encroachment/violations of constructions and that Government lands are restored. The purpose of the Act is to ensure that the buildings are constructed in accordance with the plan and not in violation of the plan. The deviations could be permissible in accordance with Rules to some extent and not in its entirety. Learned Sub Judge, Melur, is directed to take up O.S.No.343 of 2019 and decide the same as expeditiously as possible, preferably within one month from the date of receipt of a copy of this order, without adjourning the matter beyond three working days at any point of time. No costs.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



SRM

To

1.The Sub Judge, Melur.

2.The Zonal Deputy Tahsildar,
Madurai North Taluk,
Office of the Tahsildar,
Madurai District.

+1 CC to Mr. Special Government Pleader, SR.No. 19900

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