



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.16891 of 2020

WEB COPY

1.S.K.Balakrishnan

2.B.Mariyammal

.. Petitioners

Vs.

1.The Revenue Divisional Officer,
Kovilpatti Taluk,
Thoothukudi District.

2. The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to complete the proceedings in Na.Ka.A2/7074/2016 dated 14.07.2018 within the time limit that may be stipulated by this Court and consequently direct the 1st respondent to provide patta in respect of the properties of the petitioner in S.Nos.19/5, 19/6 to an extent of 5 Acre 40 cents of Aavalanatham Village, Kovilpatti Taluk, Thoothukudi District.

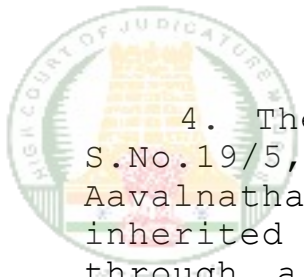
For Petitioners	:	Mr.C.M.Arumugam
For Respondents	:	Mr.S.Angappan Government Advocate

ORDER

The petitioners have filed this petition for issuance of a direction to the first respondent to complete the proceedings in Na.Ka.A2/7074/2016 dated 14.07.2018 within the time limit that may be stipulated by this Court and consequently direct the 1st respondent to provide patta in respect of the properties of the petitioner in S.Nos.19/5, 19/6 to an extent of 5 Acre 40 cents of Aavalanatham Village, Kovilpatti Taluk, Thoothukudi District.

2. By consent, the writ petition is taken up for disposal at the admission stage itself.

3. Mr.S.Angappan, learned Government Advocate takes notice for the respondents.



4. The case of the petitioner is that the properties in S.No.19/5, 19/6 to an extent of 5 Acre 40 cents situated at Aavalnatham Village, Kovilpatti Taluk, Thoothukudi District are inherited by the petitioner's wife, the 2nd petitioner herein through a Registered Will in document No.35 of 1998, dated 22.05.1998 from the father of the 2nd petitioner. After the demise of her father, the first petitioner got title over the said property on 20.10.2004 and based on the registered Will, the second petitioner acquired the property and all the revenue records is in the name of the second petitioner. In this regard the second petitioner has got patta in Patta No.969. That being the facts, the co-brother of the second petitioner, namely, one Perumalsamy along with his wife Sathya and son, namely, Navaneethakrishnan, indulged in the illegal transfer of the title of the aforesaid property. Hence, the second petitioner filed a civil suit in O.S.No.110 of 2007 for the relief of permanent Injunction and to cancel the sale deed that was made between the said Perumalsamy and Sathya. The suit was decreed in favour of the second petitioner and till today no appeal is preferred by the defendants of the said suit. Hence, the decree and judgment passed in S.No.110/2007 dated 04.04.2008 has attained finality. Based on the registered Will and decree and judgment passed in the aforesaid Civil Suit, the authorities issued patta in the name of the second petitioner. The second respondent issued a separate patta in favour of the aforesaid Sathya vide Patta No.1304 based on the illegal sale deed. When the fact of issuance of patta in the name of Sathya came to the second petitioner's notice, the first petitioner approached the 1st respondent to cancel the patta issued in the name aforesaid Sathya and appeal was taken on file in Na.Ka.No.A2/7074/2016, dated 14.07.2018 and the same is pending before the first respondent. Hence this writ petition.

5. It is represented by Mr.S.Angappan, learned Government Advocate that the second petitioner has approached the Civil forum vide O.S.No.110 of 2007 on the file of the Principal District Munsif, Kovilpatti and the same was decreed on 04.04.2008, in favour of the second petitioner and the sale deed in Doc. No.442/2008 was set aside.

6. The Second petitioner is at the benefit of the judgment and decree passed by the Principal District Munsif in O.S.No.110 of 2007 and that the sale deed has been cancelled by means of proceedings Doc.No.442/2008. Since the judgment and decree has not been produced by the second petitioner, unless and otherwise the same is registered in the Sub Registrar office, the other documents cannot be corrected. The Appellate Authority is expected to consider the submission of the Government and also the judgment and decree and decide the issue. This Court also



makes it clear that the Appellate Authority may ensure that the no appeal is pending against the said judgment and decree. After hearing the necessary parties, the Appellate Authority, namely, the first respondent will make decision within ninety (90) days from the date of receipt of a copy of this order.

WEB COPY

7. With the above observation and direction, this Writ Petition stands disposed of. No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

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 Revenue Divisional Officer,
Kovilpatti Taluk,
Thoothukudi District.

2. The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

+1 cc to Mr.C.M.Arumugam , Advocate SR.No.22893

+1 cc to The Special Government Pleader Sr.No.23136

**W. P (MD) No. 16891 of 2020
26.11.2020**

KM (06.01.2021) 3P 5C