



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.16097 of 2020

WEB COPY

S.Kothandaram

... Petitioner

-vs-

The Tahsildar,
Rajapalayam,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to issue patta for the land in Natham Survey No.1691/5, Nallamanaickenpatti, Sholapuram Village, Rajapalayam Taluk, referred in the petitioner's petition dated 17.07.2019, within the stipulated time.

For Petitioner : Mr.A.Sivaji
For Respondent : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the respondent to issue patta for the land in Natham Survey No.1691/5, Nallamanaickenpatti, Sholapuram Village, Rajapalayam Taluk, referred in the petitioner's petition dated 17.07.2019, within the stipulated time.

2.Heard the learned Counsel appearing for the petitioner and Mr.K.P.Krishnadoss, learned Special Government Pleader, who took notice for the respondent. By consent of both parties, the Writ Petition is disposed of at the admission stage itself.

3.It is represented by the learned counsel appearing for the petitioner that a property of the petitioner's parents were partitioned orally among the petitioner and his brothers and sisters by a family arrangement deed dated 20.01.2003. As per the family arrangement deed dated 20.01.2003, the petitioner's three brothers have mutated the revenue records and they are in possession and enjoyment of their share by having separate patta in their favour. As the petitioner was working in a private company in Coimbatore, he could not apply for mutation of revenue records and after retirement he came to his native and made an application on 17.07.2019 for transfer of patta in respect of his share for the land in Natham Survey No.1691/5 situated at Nallamanaickenpatti,



Sholapuram Village, Rajapalayam Taluk. Since no response from the respondent, the petitioner has come forward with the present Writ Petition.

4.Considering the facts and circumstances of the case, the respondent is directed to consider the application made by the petitioner on 17.07.2019 and pass appropriate orders in accordance with law, after hearing the petitioner and the persons who are likely to be affected. In case of issuance of patta, survey needs to be conducted and the said survey shall be photographed and videographed in the presence of the petitioner and the persons who are likely to be affected and the costs of photograph and Videograph to be borne by the party seeking patta. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not decided the rights of the parties in the present Writ Petition. It is open to the respondents to decide the same. The directions given in W.P.(MD).No.7746 of 2020 batch, dated 23.09.2020 and W.P.(MD) No.13465 of 2020 dated 13.10.2020 should be followed wherever it is applicable. In case any Civil Suit is already pending, there is no need for measuring the land in question, as it is for the Civil Court to decide the matter. After the order of this Court any suit is filed, the officials hands are not tied to carry out the directions mentioned in the aforesaid two orders, as there is a possibility of one or other party to move the Court later and to stall the proceedings before the revenue authorities. Only exception is if an interim order operates against the authorities.

5.If the persons like the present petitioner, who are seeking to survey the land do not disclose the other persons, who are interested, they must file an affidavit that there are no third parties involved in the issue concerned and also there are no interested parties. In case, at a later point of time if the fact came to light that there is any interested parties, the decision taken by the authority in favour of the petitioner will stand automatically cancelled. Further, the averments made in the affidavit shall be reflected in their order so that the officer will not face any problem at a later point of time. More over, for filing a false affidavit, if appropriate action is taken, the person concerned will have to face imprisonment rather than fine.

6.With the above directions, the writ petition, is disposed of. No costs.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

The Tahsildar,
Rajapalayam,
Virudhunagar District.

+1 CC to M/s.A.SIVAJI, Advocate (SR-24051[F] dated 04/12/2020)

+1 CC to M/s.GP (SR-24427[F] dated 08/12/2020)

W.P (MD) No.16097 of 2020
04.12.2020

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