



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM

THE HON'BLE MR.JUSTICE **S.VAIDYANATHAN**

W.P. (MD) No.16126 of 2020

N.Alagumalai

... Petitioner

Vs.

1. The District Collector,
Madurai District, Madurai.

2. The Revenue Divisional Officer,
Madurai District, Madurai.

3. The Tahsildar,
Vadipatti Taluk Office,
Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the third respondent herein to issue a patta to the petitioner in respect of Survey No.297A situated in East Street, Thethur Village, T.Mettupatti Post, Vadipatti Taluk, Madurai District based on petitioner's representation dated 04.12.2019 and pass final orders on merit and in accordance with law within a reasonable time fixed by this Court.

For Petitioner : Mr.N.Marimuthu

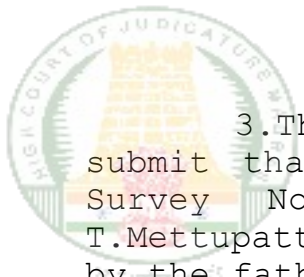
For Respondents : Mr.P.Kannithevan

Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the third respondent herein to issue a patta to the petitioner in respect of Survey No.297A situated in East Street, Thethur Village, T.Mettupatti Post, Vadipatti Taluk, Madurai District based on petitioner's representation dated 04.12.2019 and pass final orders on merit and in accordance with law within a reasonable time fixed by this Court.

2.Heard the learned Counsel appearing for the petitioner and Mr.P.Kannithevan, learned Additional Government Pleader, who took notice for the respondents. By consent, the Writ Petition is disposed of at admission stage itself.



3. The learned Counsel appearing for the petitioner would submit that the property measuring to an extent of 9½ cents in Survey No.297A situated in East Street, Thethur Village, T.Mettupatti Post, Vadipatti Taluk, Madurai District was purchased by the father of the petitioner through a registered sale deed dated 19.01.1961 and he has been in possession and enjoyment of the said property. All the records and house tax stands in the name of the petitioner's father and thereafter, in the name of the petitioner. While so, in the year 1964 when the adjacent owner donated his land to T.Mettupatti Panchayat for construction of Government Primary School, wrongly the survey number of the petitioner's land has been included in the Patta. Therefore, the petitioner filed a suit in O.S.No.239 of 2010 before the District Munsif-cum-Judicial Magistrate, Vadipatti seeking declaration and permanent injunction restraining the Panchayat from in any way interfering with the enjoyment and possession of the petitioner and the said suit was decreed in favour of the petitioner on 31.07.2012. Thereafter, the petitioner approached the respondents to issue patta in respect of S.No.297A based on the Civil Court decree in favour of the petitioner. The petitioner has also made a representation on 04.12.2019. Since there was no response from the respondents, the petitioner has come forward with the present Writ Petition.

4. This Court without going into the merits of the case, directs the third respondent to consider the representation of the petitioner, dated 04.12.2019 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 official 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. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (A.E)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The District Collector,
Madurai District, Madurai.
2. The Revenue Divisional Officer,
Madurai District, Madurai.
3. The Tahsildar,
Vadipatti Taluk Office,
Madurai District.

+1 CC to the SPL GP (SR-22545[F] dated 23/11/2020)

W.P. (MD) No.16126 of 2020
18.11.2020

TP (CO)
CS (23.12.2020) 3P 5C