



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.18164 of 2020

M.Petchiammal

... Petitioner

-Vs-

1.The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

2.E.Veerapagu

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the first respondent herein to expedite the proceedings for cancellation of patta stands in Patta No.819 dated 29.08.2017 in Survey No.1469/3A having an extent of 24 cents and patta stands in Patta No.85 dated 29.08.2017 in Survey No.1450/1A having an extent of 23 cents filed by the petitioner herein before him as statutory appeal, which is pending before the first respondent herein within a stipulated time fixed by this Court.

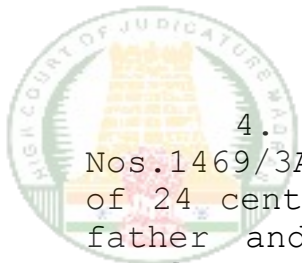
For Petitioner	: Mr.P.Jeyasankar
For Respondent No.1	: Mr.M.Murugan Government Advocate

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the first respondent to dispose of the appeal filed by the petitioner on 09.10.2020 under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983 within a stipulated time that may be fixed by this Court.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Mr.M.Murugan, learned Government Advocate accepts notice on behalf of the first respondent. Since no adverse order is going to be passed against the second respondent, notice to him is dispensed with.



4. According to the petitioner, the property in Survey Nos.1469/3A in Patta No.819 and 1450/1A in Patta No.85, to an extent of 24 cents and 23 cents respectively belonged to the petitioner's father and his brother. The petitioner's father has executed a settlement deed in favour of the petitioner and her mother in Document No.5889/11 dated 23.12.2011 and thereafter, the petitioner's mother has executed a registered Will in respect of her share in favour of the petitioner in Document No.34/2012 before the Valliyur Sub Registrar office. In the meantime, the petitioner's father cancelled the above said settlement deed in Document No.5889 of 2011 dated 23.02.2011 and executed another settlement deed in favour of the second respondent in Document No.3336/15 dated 25.11.2015. Therefore, the petitioner filed a suit in O.S.No.323 of 2015 on the file of the District Munsif Court, Valliyur seeking permanent injunction and declaration against the settlement deed executed in favour of the second respondent by her father. The suit was decreed in favour of the petitioner on 31.08.2017. Therefore, the petitioner filed petition before the Tahsildar, Radhapuram seeking patta in favour of her by cancelling the patta stands in the name of the second respondent. But the Tahsildar disposed the same stating that the case is pending before the District Munsif Court, Valliyur. Hence, the petitioner filed an appeal before the first respondent seeking to cancel the patta issued fraudulently in the name of the second respondent. But the same is pending before the first respondent. Hence, the petitioner has approached this Court seeking aforesaid prayer.

5. This Court is of the considered view that the issue whether such an act by the second respondent is correct or not, has got to be decided by the Appellate Authority, namely, first respondent. Hence, without rendering any adverse order against the second respondent, this Court directs the Appellate Authority, namely, first respondent to dispose of the appeal of the petitioner, after affording opportunity to the petitioner as well as the second respondent and the other parties, who are likely to be affected, within a period of 90 days from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-

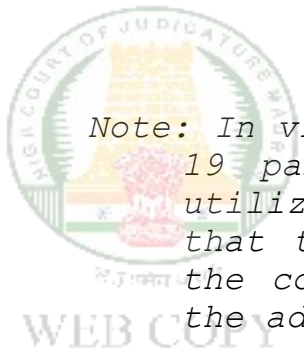
Assistant Registrar (A.E)

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/ /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

The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

+1cc to the SPL GP SR.No.25106.

W.P. (MD) No.18164 of 2020
10.12.2020

ARK(CO)
CS(06.01.2021) 3P 3C