



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18172 of 2020

S.Panchavarnam

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Sub Collector Office Road,
Dindigul-1.

2.The Special Tahsildar,
Urban Land Tax,
Dindigul Town,
Dindigul.

3.R.Vijayalakshmi

4.Selvaraj

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 17.10.2016, conduct an enquiry and pass orders within a time frame that may be fixed by this Court.

For Petitioner : Mr.K.Arunraj

For Respondents : Mr.K.P.Krishnadoss
for R1&R2 Special Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the first respondent to consider the petitioner's representation dated 17.10.2016, conduct an enquiry and pass orders within a time frame that may be fixed by this Court.

2. Mr.K.P.Krishnadoss learned Special Government Pleader accepts notice on behalf of the respondents. Since no adverse order is going to be passed against the respondents 3 and 4, notice to them is dispensed with.



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

4. According to the petitioner, the property comprised in T.S.No.1961/1A to an extent of 69696 sq.ft. situated at Ward No.6, Dindigul East Town and Taluk, Dindigul District was originally belonged to the petitioner's grandfather, namely, Santhanakonar, who purchased the land on 23.10.1931. After the demise of the petitioner's grandfather, her father acquired the property by way of inheritance. Thereafter, the father and brother of the petitioner executed a sale deed in favour of the fourth respondent in respect of 12349 sq.ft out of 69696 sq.ft. Dated 06.10.1987. Further, the petitioner's father and brother made oral partition among them in the remaining land. As per the oral partition, the land to an extent of 19115 sq. ft alone, the petitioner's brother Rajangam executed a settlement deed in favour of his wife, who is the third respondent herein, through registered settlement deed in Doc.No.1895/2012 dated 23.08.2012. As such, in respect of 9550 sq.ft land alone the petitioner's father Vellaisamy executed a settlement deed in favour of the petitioner's mother Rogini through registered settlement deed in Doc.No.2088/2015, dated 28.07.2015. Thereafter her mother Rogini executed a settlement deed in favour of the petitioner in Doc No.3/2016 dated 04.01.2016. Subsequently, Patta No.128 and survey number also subdivided in respect of the land owned by the petitioner and the third respondent in T.S.No.1961/1A part, and the fourth respondent's survey number was subdivided in T.S.No.1961/1A2 part, and separate in Patta No.137 was assigned in the name of the fourth respondent herein. In the meantime, the petitioner found that mistakenly Patta No.128 stands in the name of the fourth respondent herein. Hence she made an application on 17.10.2016 before the first respondent to cancel the patta wrongly stands in the name of the fourth respondent and issue in favour of the petitioner and the third respondent. However, the same has not been considered so far. In such circumstances, the petitioner has approached this Court.

5. This Court, without going into the merits of the case and without passing any adverse order against the respondents 3 and 4, directs the first respondent to survey the property of the petitioner, after affording opportunity to the petitioner, the third respondent as well as the fourth respondent and other interested parties or 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 costs of Photograph and Videograph to be borne by the petitioner. Such an exercise shall be completed within a period of three (3) months from the date of



receipt of a copy of this order. At the time of conducting survey and in case of issuance of patta, the guidelines issued by this Court in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and W.P.(MD) Nos.7746 of 2020 etc., batch dated 23.09.2020, have to be scrupulously followed. 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.

6. 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.

7. Accordingly, this Writ Petition is 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,
Revenue Divisional Office,
Sub Collector Office Road,
Dindigul-1.

2.The Special Tahsildar,
Urban Land Tax,
Dindigul Town,
Dindigul.

+1 cc to Mr.K.Arunraj , Advocate SR.No.24795

+1 cc to The Special Government Pleader Sr.No.25129

W.P. (MD) No.18172 of 2020
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KM (06.01.2021) 4P 5C