



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.12.2020
CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) No.17778 of 2020

R.Palanisamy,
Secretary,
Moonru Manthai 84 Oor sozhia Vellalar,
Sayaratchai Kattalai society,
Ayyarmalai, Sivayam Post, Kulithalai,
Karur District.

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kulithalai,
Karur District.

2.The Tahsildar,
Kulithalai,
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to issue patta in favour of the petitioner in respect of the property comprised in Old S.No.41/1, New S.No.508/1, to an extent of 002.60 Ares situated in Ayyarmalai, Sathiyamangalam Village, Kulithalai Taluk, Karur District in terms of Judgment made in S.A.(MD).No.955 of 2008 dated 07.01.2020.

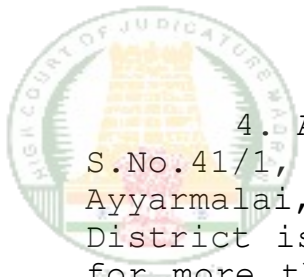
For Petitioner	: Mr.K.Govindarajan
For Respondents	: Mr.M.Murugan Government Advocate

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents to issue patta in favour of the petitioner in respect of the property comprised in Old S.No.41/1, New S.No.508/1, to an extent of 002.60 Ares situated in Ayyarmalai, Sathiyamangalam Village, Kulithalai Taluk, Karur District in terms of Judgment made in S.A.(MD).No.955 of 2008 dated 07.01.2020.

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 respondents.



4. According to the petitioner, the property comprised in Old S.No.41/1, New S.No.508/1, to an extent of 002.60 Ares situated in Ayyarmalai, Sathiyamangalam Village, Kulithalai Taluk, Karur District is in possession and enjoyment of the petitioner community for more than 100 years. In the meantime, the temple, namely, Arul Migu Rethinagireswarar Temple, Ayyarmalai, represented by its Executive Officer had filed a suit for declaration, injunction and mandatory injunction in respect of the above said property as against the petitioner in O.S.No.213 of 2001 on the file of the District Munsif Court, Kulithalai and the suit was decreed on 05.02.2007 and thereafter, the petitioner filed appeal in A.S.No.16 of 2017 before the Sub Court, Kulithalai. The plaintiff/temple has also filed a cross-appeal. The Appellate Court by way of common judgment dated 06.10.2007, partly allowed the second appeal and allowed the cross appeal. Hence, the petitioner filed Second Appeal before this Court in S.A(MD).No.955 of 2008 and the same was allowed by a detailed order dated 07.01.2020. Therefore, the petitioner Sangam sent an application dated 12.03.2018 to the first respondent to issue patta in favour of the petitioner Sangam and the first respondent vide his proceedings dated 19.03.2018 directed the second respondent to enquire the issue and grant patta in favour of the petitioner Sangam. 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, directs the second respondent to survey the property of the petitioner, after affording opportunity to the petitioner as well as the interested parties 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 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. The second respondent is also directed to submit a report to the first respondent in this regard as per his proceedings dated 19.03.2018.



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 (Records)

// True Copy //

/ /2020

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,
Kulithalai,
Karur District.

2.The Tahsildar,
Kulithalai,
Karur District.

+1 CC to Mr.K.GOVINDARAJAN, Advocate SR-24721.

W.P. (MD) No.17778 of 2020
08.12.2020

MJ(CO)
CS(18.12.2020) 3P 4C