



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.21281 of 2017

P.Subbiah Thevar

... Petitioner

-Vs-

The Tahsildar,
O/o. The Tahsildar Office
Kottaimedu
Kamuthi Taluk
Ramanathapuram District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records of the respondent under the proceedings வழக்கு பதிவேடு எண் :2/2017 dated 16.06.2017 and quash the same as illegal and direct the respondent to issue patta in favour of the petitioner in respect of the land comprised in old Survey No.279/2 corresponding to UDR S.R.No.451/1 and S.No.451/18 measuring an extent of 13.360 cents situated in Melamudimannarkottai Village, Kamuthi Taluk, Ramanathapuram District.

For Petitioner	: Mr.M.Ponniah
For Respondent	: Mr.M.Murugan
	Government Advocate

ORDER

Challenging the order passed by the respondent in வழக்கு பதிவேடு எண் :2/2017 dated 16.06.2017 and to direct the respondent to issue patta in favour of the petitioner in respect of the land comprised in old Survey No.279/2 corresponding to UDR S.R.No.451/1 and S.No.451/18 measuring an extent of 13.360 cents situated in Melamudimannarkottai Village, Kamuthi Taluk, Ramanathapuram District, the petitioner is before this Court with this writ petition.

2.The petitioner is the absolute owner of the property in S.No. 279/2 corresponding to UDR S.R.No.451/1 and S.No.451/18 measuring an extent of 13.360 cents situated in Melamudimannarkottai Village, Kamuthi Taluk, Ramanathapuram District, from the date of partition. Since there is some dispute with regard to the said property, suit in O.S.No.34/2013 came to be filed by the petitioner and the suit was decreed in his favour on 03.03.2015. An application dated 24.09.2015 along with relevant documents have been



made by the petitioner for issuance of patta to the respondent. However, since no action has been taken on the same, the petitioner has preferred another application to the District Revenue Officer on 03.10.2016 for issuance of patta and the same was forwarded to the respondent herein. Finding no response, the petitioner has filed W.P.(MD) No.338/2017, which came to be disposed of by this Court on 09.01.2017 directing the respondent to consider the representation of the petitioner. Along with a copy of the order passed by this Court and an application dated 16.02.2017, the petitioner approached the respondent. Though the petitioner is entitled for patta pursuant to the judgment and decree, the respondent, by order dated 16.06.2017, has rejected the same stating that the petitioner is an encroacher and patta could not be issued and hence, challenging the said order, the petitioner is before this Court with this writ petition.

3. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that admittedly, the petitioner is having a judgment and decree and hence, for the said lands, patta has got to be issued. However, since the same has not been issued, the petitioner is before this Court.

4. There is no doubt true that no patta can be issued, as according to the respondent the place, for which, patta has been sought for is a street. Even now the respondents are contemplating an appeal against the order and that the respondent may be directed to issue patta without prejudice to the rights of the petitioner in the appeal that may be filed by the respondent, it is contended.

5. This Court makes it clear that if the petitioner is having a judgment and decree, patta can be issued, but, however, if it is found to be a street, any construction/modification made in the area will be demolished. At this juncture, the respondent would contend that while issuing the patta, the petitioner shall give an undertaking stating that, in case, if he fails in the appeal, street should be restored, as existing as on date and he will not pray for any compensation for the betterment he may do for the street. The said exercise shall be completed within a period of 90 days from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Tahsildar,
O/o. The Tahsildar Office
Kottaimedu
Kamuthi Taluk
Ramanathapuram District.

+1 CC to M/s.GP (SR-22685[F] dated 24/11/2020)

Order made in

W.P. (MD) No. 21281 of 2017

23.11.2020

ARK (CO)
TR(11.12.2020) 3P 3C