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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10643 of 2016 and
W.M.P.No.9335 of 2016

Krishnaveni

... Petitioner

-Vs-

1. The District Collector,
Tiruvallur District,
Thiruvallur.

2. The Tahsildar,
Tiruvallur Taluk,
Tiruvallur.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for records relating to second respondent proceedings in Na.Kha.989-2014/A1, dated 10.10.2014 and quash the same and direct the respondent to issue the copy of the Original Patta for Plot No.62, Arunthathiar Colony, comprised in S.No.482/4, over an extent of 2 ½ cents (0.01.0 ares) in Poondi Village, Thiruvallur District.

For Petitioner : Mr.M.Muthappan

For Respondents: Mr.M.R.Gokul Krishnan
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for records relating to second respondent proceedings in Na.Kha.989-2014/A1, dated 10.10.2014 and quash the same and direct the respondent to issue the copy of the Original Patta for Plot No.62, Arunthathiar Colony, comprised in S.No.482/4, to an extent of 2 ½ cents (0.01.0 ares) in Poondi Village, Thiruvallur District.

2. Heard, Mr.M.Muthappan, learned counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.



3. The case of the petitioner is that in the year 1988, under the scheme of issuance of free house site patta to Arunthathiar community people, the petitioner was assigned the house site patta in Plot No.62 in Survey No. 482/4 to an extent of 2 ½ cents situated at Poondi Village, Tiruvallur District. After assignment of land, many of the beneficiaries had put up construction in their respective plots availing housing loan. However, the petitioner misplaced the original patta and she has a copy of the original patta. Therefore, she approached the second respondent for issuance of duplicate patta and also approached this Court in W.P.No.34405 of 2012. This Court considered the request made by the petitioner and by an order dated 16.12.2013, directed the respondents to take effective and efficacious steps in tracing out the original papers and pass orders with regard to issuance of patta for Plot No.62. The relevant portion of the order reads as follows:

" Considering the respective submissions made on either side and taking note of the fact that the writ petitioner in the main writ petition has sought for only for issuance of an original patta for Plot No.62, Arunthathiar Colony, comprised in S.No.482/4 measuring an extent of 2 ½ cents 0.01.0 ares in Poondi Village, Thiruvallur District, this Court, to alleviate the suffering of the petitioner and to facilitate the petitioner to obtain the said patta, in question, on the basis of Equity, Fair Play, Good Conscience, even as a matter of prudence, directs the respondents 1 to 3 to take effective and efficacious steps in tracing out the original patta TKRC 14284/88 A2 in respect of S.No.482/4 measuring an extent of 2 ½ cents 0.01.0 ares in Poondi Village in a diligence and forthright manner and to furnish the same to the petitioner within a period of six weeks from the date of receipt of copy of this order, to avoid any further loss and lapse of time in regard to the issuance of original patta for Plot No.62, Arunthathiar Colony, comprised in S.No.482/4 measuring an extent of 2 ½ cents 0.01.0 ares in Poondi Village, Thiruvallur District, this Court, also directs the petitioner to furnish the documents Viz., (1) the xerox copy of assignment Patta dated .10.1988 TKRC 14284 A2. (2). The proceedings of the District Collector (incharge) dated 05.12.1996 and other necessary relevant ancillary/incidental documents together with a fresh representation within a week from the date of receipt of copy of this order. On receipt of such application/representation made by the petitioner, the respondents are directed to act in a diligent fashion in regard to the request of the petitioner as regards the issuance of patta in question, in Plot No.62, as stated



supra. Further the petitioner is directed to lend her assistance and helping hand in all respects to the respondents 1 to 3 in regard to the furnishing of the original patta in question."

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4. By the impugned order dated 10.10.2014, the second respondent herein rejected the claim of the petitioner for the reason that the petitioner failed to fulfill the condition imposed on the assignment of patta in her favour. The petitioner did not construct any house in the assigned land and kept the same as vacant. Therefore, in the year 1991, while Natham survey, it was found that the land was kept as vacant and changed the classification as Meikkal Poramboke in the Village Accounts. Therefore, the request made by the petitioner was rejected.

5. A perusal of the assignment of patta reveals that the petitioner shall construct house in the assigned land within a period of 6 to 12 months. Further, if any of the condition not complied with, the assignment of patta stands cancelled. However, this Court while directing the respondents to consider the request of the petitioner, the petitioner was directed to lend her assistance and lend hands to all the respondents in this regard. However, on perusal of the impugned order revealed that the petitioner was never given any notice and without conducting any enquiry, passed the impugned order. Therefore, it is a clear violation of principles of natural justice and before passing the order, the petitioner shall have to be given an opportunity of hearing and also for production of documents.

6. On the sole ground alone, the impugned order cannot be sustained as against the petitioner. Accordingly the proceedings dated 10.10.2014 in Na.Kha.989/2014/A1, passed by the second respondent is hereby set aside. The matter is remanded back to the third respondent for fresh enquiry. It is made clear that the third respondent is directed to issue notice to the petitioner and counter parties, if any and after giving an opportunity of hearing and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of copy of this order.

7. In the result the writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



Lpp/mn

To

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1. The District Collector,
Tiruvallur District,
Thiruvallur.
2. The Tahsildar,
Tiruvallur Taluk,
Tiruvallur.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.50594
+1cc to the Government Pleader, S.R.No.50889

W.P.No.10643 of 2016 and
W.M.P.No.9335 of 2016

VBM(CO)
CB(22/10/2021)