

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.02.2021
CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 5590 of 2008
and
M.P.No.1 of 2008

C.Madhaiyan

... Petitioner

-vs-

The Tahsildar,
Mettur,
Salem District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the respondent in Na.Ka.2609-07(P3) dated 07.06.2007 quash the same and direct the respondent to issue patta to the petitioner for his occupation in Survey No.238/2 to the extent of 21 cents, Mecheri Village, Mettur Taluk, Salem District by applying the Government Order in Revenue Ni.Mu 1(2) Department in G.O.Ms.No.854 dated 30.12.2006.

For Petitioner : Mr.S.Doraisamy

For Respondent: Mr.Venkatesh Kumar
Government Advocate

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O R D E R

This writ petition is filed for a Certiorarified Mandamus, to quash the rejection order of the respondent in Na.Ka.2609-07(P3) dated 07.06.2007 and to direct the respondent to issue patta to the petitioner in respect of Survey No.238/2 to the extent of 21 cents, Mecheri Village, Mettur Taluk, Salem District by applying the Government Order in Revenue Ni.Mu 1(2) Department in G.O.Ms.No.854 dated 30.12.2006.

The brief facts necessary for disposal of the writ petition are as follows:-

2. The petitioner states that his father was in occupation of the property measuring to an extent of 21 cents in S.No.238/2 in Mecheri Village, Mettur Taluk, Salem District. Thereafter, the said land is in occupation of the petitioner for more than 40 years. The total extent of the land in the survey field is 1.26 hectares and the same is classified as Mandaveli Poromboke. It is stated that the father of the petitioner was in enjoyment of the land for several years. When the petitioner approached the respondent for issuance of patta, the same was rejected by the respondent only on the ground that the petitioner's wife was working as a teacher and that encroachment of the Government land by the petitioner cannot be regularised, as no Government Servant can be allowed to encroach the Government land and then to seek regularisation.

3. Learned counsel for the petitioner submitted that the entitlement of the petitioner to get assignment of patta for the land which is in his holding should be decided based on the qualification or disqualification of the petitioner and not on the ground that the petitioner's wife being a teacher is not qualified. Though the petitioner's wife is a teacher, the petitioner's enjoyment following his father is independent and the right of the petitioner to seek assignment of patta should be considered on merits based on Revenue Standing Orders or policy of the Government. Rights of the petitioner to seek patta or assignment depends upon several facts relating to the nature and character of land, enjoyment of the property, policy of the Government and scheme of government to grant free patta or assignment.

4. The reasons stated in the impugned order does not sound good and it cannot be accepted. No executive order or guideline issued by the Government is produced before this Court to justify the reasons for rejecting the petitioner's request. However, this Court can not direct the respondent to grant patta or assignment. Hence, this Court is inclined to pass the following order:-

(i) The impugned order dated 07.06.2007 passed by the respondent is set aside and the writ petition is allowed

(ii) The matter is remitted to the respondent who is expected to pass orders on merits and in accordance with law,

(iii) The respondent shall give sufficient opportunity to the petitioner and after perusal of the documents produced by the petitioner in support of his claim, can pass final order. This exercise shall be completed by the respondent within a

period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

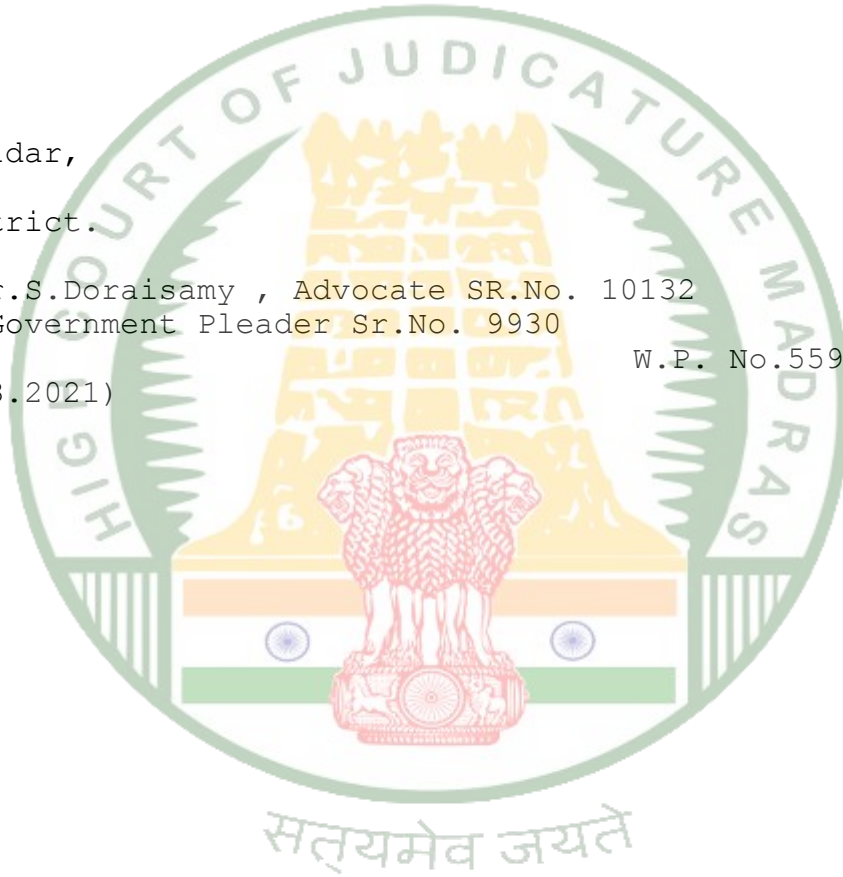
dm
To

The Tahsildar,
Mettur,
Salem District.

+1cc to Mr.S.Doraisamy , Advocate SR.No. 10132
+1 cc to Government Pleader Sr.No. 9930

W.P. No.5590 of 2008

A.SK(23.03.2021)



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