

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12496 & 12497 of 2021

Deepa ...Petitioner in W.P.No.12496/2021

Dheenadhayalan ...Petitioner in W.P.No.12497/2021

Vs.

- 1.The District Collector,
District Collectorate Office,
Thiruvannamalai District.
- 2.Thasildar,
Chengam Thasildar Office,
Chengam Taluk,
Thiruvannamalai District.
- 3.Chief Surveyor,
Chengam Taluk,
Thiruvannamalai District. ...Respondents in both W.Ps.

Prayer in W.P.No.12496/2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents particularly the 2nd respondent to transfer the patta in petitioner's name for properties in Survey No.217/3 to an extent of 0.37.5 ares, acre 0.93 cents & Survey No.217/6 to an extent of 0.08.0 ares, acre 0.20 cents situated in Melvanakkampadi Village, Sengam Taluk, Thiruvannamalai District based on the petitioner's application dated 29.01.2021.

Prayer in W.P.No.12497/2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents particularly the 2nd respondent to transfer the patta in petitioner's name after proper sub division of the properties in Survey No.224/05 to an extent of 0.48.0 ares (1 acre) and Survey No.224/06 to an extent of 0.39.50 acres (0.97 cents) situated in Melvanakkampadi Village, Chengam Taluk, Thiruvannamalai District based on the petitioner's application dated 08.02.2021.

For Petitioner : Mr.G.Mohammed Aseef
(In both petitions)

For Respondents : Dr.S.Suriya
Government of Tamil Nadu (Civil Side)
(In both petitions)

COMMON ORDER

The lis on hand is to issue writ of Mandamus in W.P.No.12496 of 2021, to direct the 2nd respondent to transfer the patta in petitioner's name for properties in Survey No.217/3 to an extent of 0.37.5 ares, acre 0.93 cents & Survey No.217/6 to an extent of 0.08.0 ares, acre 0.20 cents situated in Melvanakkampadi Village, Sengam Taluk, Thiruvannamalai District based on the petitioner's application dated 29.01.2021 based on petitioner's application dated 29.01.2021 and to issue writ of Mandamus in W.P.No.12497 of 2021, to direct the 2nd respondent to transfer the patta in petitioner's name after proper sub division of the properties in Survey No.224/05 to an extent of 0.48.0 ares (1 acre) and Survey No.224/06 to an extent of 0.39.50 acres (0.97 cents) situated in Melvanakkampadi Village, Chengam Taluk, Thiruvannamalai District based on the petitioner's online application.

2.The relief sought for as such in these Writ Petitions is beyond the scope, in view of the fact that the High Court cannot issue direction to grant patta in favour of a person, in the absence of establishing civil right by such parties before the competent authorities or before the Civil Court of law. The High Court cannot conduct a roving enquiry with reference to the claim set out in the present Writ Petitions, which is of civil nature and therefore, the petitioner in both the Writ Petitions have to approach the competent forum for redressal of the grievances.

3.The Tamil Nadu Patta Passbook Act, 1983 deals with issuance of patta, modification, etc. Section 3 stipulates issue of patta pass book. Section 10 contemplates modification of entries in the patta pass book. For issuance of patta, an enquiry is to be conducted by the competent authority with reference to the documents to be produced by the respective parties and by affording opportunity to all the parties concerned. Such an exercise cannot be done in a writ proceedings and therefore, the petitioners have to go before the authorities for adjudication of the issues in order to crystallize the

rights of the parties regarding their claim for grant of patta or modification.

4.The learned counsel appearing on behalf of the respondents made a submission that the petitioners have not submitted any such application as stated in the affidavits before the respondents and therefore, the Writ Petitions need not be entertained at all.

5.Even in such case, where the application is filed, the said application is to be dealt with by the authorities by following the procedures as contemplated under the Tamil Nadu Patta Passbook Act, 1983. Under Section 3, Tahsildar is the authority to entertain an application for issue of patta passbook and for modification under Section 10. Therefore, the petitioners have to approach the Tahsildar. Even as per the affidavits filed in support of the present Writ Petitions, the petitioners claim that they have sent representations to the District Collector. The District Collector is not the original authority to deal with the grievances of the petitioner in the provision of the Patta Passbook Act and therefore, both the petitioners are at liberty to file an appropriate application in the prescribed format before the competent authority under the Tamil Nadu Patta Passbook Act either for issuance of Patta or for modification, etc. In the event of such applications, the said applications are to be dealt with by the authorities competent in the manner prescribed under the provisions of the Act and Rules and by affording opportunity to all the parties concerned and the applications are to be taken into consideration, in the order of seniority based on the date of application and in general, the authorities are bound to deal with all such applications in a time bound manner and dispose of the same as expeditiously as possible. Keeping such applications filed under the Patta Passbook Act for a longer time would cause prejudice to the parties and in the event of any dispute between the parties, the authorities cannot issue a patta and the parties must be granted with an opportunity to approach the Civil Court for establishing their civil rights. Thus, it is made clear that the Revenue authorities cannot adjudicate the disputed issues between the parties regarding their civil rights and the patta is to be granted strictly in accordance with the provisions of the Act. With these clarifications, the petitions stand disposed of with a liberty to the petitioners to approach the authorities.

6. Accordingly, the Writ Petitions stand disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Gsa

To

1.The District Collector,
District Collectorate Office,
Thiruvannamalai District.

2.Thasildar,
Chengam Thasildar Office,
Chengam Taluk,
Thiruvannamalai District.

3.Chief Surveyor,
Chengam Taluk,
Thiruvannamalai District.

+lcc to the Government Pleader SR.27620, 27619

W.P.Nos.12496 & 12497 of 2021

BS (CO)
srg 13/07/2021

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