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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17276 of 2021
and
W.M.P.No.18300 of 2021

Muthulakshmi

...Petitioner

vs.

1. The District Collector,
O/o The District Collector Office,
Coimbatore.
2. The Sub-Collector,
O/o The District Collector Office,
Coimbatore.
3. The Thashildhar,
Taluk Office, Anaimalai,
Pollachi Taluk,
Coimbatore District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the 2nd respondent pertaining to the order Na.Ka.No.659/2021/A3 dated 29.04.2021, quash the same as illegal and consequently issue a direction to the respondents 2 and 3 to give a patta in petitioner's name as per sale deed dated 12.10.2020 and S.No.404/14 (registered as document no.3869 of 2020, SRO, Ananimalai) based on the petition dated 16.04.2021 and award costs.

For Petitioner : Mr.S.Makesh

For Respondents: Mr.A.M.Ayyadurai
Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the 2nd respondent pertaining to the order in Na.Ka.No.659/2021/A3 dated 29.04.2021, quash the same as illegal and consequently, issue a direction to the 2nd and 3rd respondents to give a patta in



petitioner's name as per sale deed dated 12.10.2020 and S.No.404/14 (registered as document no.3869 of 2020, SRO, Anaimalai) based on the petition dated 16.04.2021 and award costs.

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2. The case of the petitioner is that the property comprised in Old Natham S.No.157/C1 and New Natham S.No.404/14 situated at Angalakurichi Village, Anaimalai Taluk, Coimbatore District, was originally assigned in favour of Mrs.Rukmani Ammal by the Special Thashildhar in the proceedings in Na.Ka.No.4884/2001/A4 dated 23.03.2001 under Patta No.760/1410 ad-measuring to an extent of 100 Sq.Meter. Thereafter, she constructed a small Villai House and living their. She died on 16.09.2019 and her legal heirs after getting their marriage living other places. Therefore, they executed a sale deed dated 12.10.2020 in favour of the petitioner registered vide Document No. 3869 of 2020.

3. In the meanwhile, one Manikandan filed public interest litigation in W.P.No.4066 of 2021 for a direction, directing the respondents 1 to 3 therein to remove the encroachment of pathway/street comprised in Survey No.Ka.Sa.No.404, Subdivision No.17, Arisana Veethi, Natham Ward No.3, Angalakurichi Village, Pollachi Taluk, Coimbatore District. The Hon'ble Division Bench of this Court by an order dated 12.03.2021, directed the Block Development Officer, Anaimalai, with the assistance of the 3rd respondent therein, to remove the encroachment if it is their, in accordance with law.

4. The petitioner submitted a sketch to explain the subject property and pathway. The pathway is situated between the land comprised in S.Nos.401/1 and 407/14. The said street was encroached by one Thirumoorthy. Though there is an encroachment, without taking steps to remove the encroachers in the pathway, the assignment of patta has been cancelled by the order impugned in this writ petition dated 29.04.2021 by the 2nd respondent.

5. After purchasing the subject property, the petitioner applied for patta. In this regard, there was some quarrel between the petitioner and the Village Administrative Officer, Angalakurichi and as such, the petitioner also lodged complaint before the 2nd respondent and it was forwarded to the 3rd respondent for appropriate action as against the Village Administrative Officer, Angalakurichi.

6. On perusal of the assignment of patta issued in favour of the petitioner's vendor viz., Mrs.Rukmani Ammal there were conditions. Accordingly, the assignee shall construct a house within a period of one year. The further condition is that without getting prior permission, the subject property shall not be sold in favour of the 3rd parties within a period of ten



years.

7. Admittedly, the assignment was made on 15.03.2001. Thereafter, the assignee namely Mrs.Rukmani Aammal constructed a small Villai house and paid the house tax. On perusal of the house tax receipt, the assignee has paid house tax till the year 2020. After her demise, her legal heirs paid house tax till 2021. Therefore, after a period of 19 years, the subject property sold by the assignees, viz., the legal heirs of Mrs.Rukmani Ammal, in favour of the petitioner. That apart, the assignee was put up a small Villai house and assessed house property tax. Whereas, the impugned order revealed that the subject property is lying vacant.

8. Further stated that the subject property is pathway to reach other public to their respective houses. As stated supra, on perusal of the order passed by the Hon'ble Division Bench of this Court and the sketch produced by the petitioner revealed that the pathway situated between S.Nos.407/1 and 407/14 and encroached by other third party. The subject property is no way connected with the pathway. Therefore, there is no violation of the conditions imposed while assigning the subject property by the assignee and the subject property is not a pathway for the general public and it is no way connected to the other houses or hindrance to other residence of their pathway.

9. In view of the above, the impugned order in Na.Ka.No.659/2021/A3 dated 29.04.2021 of the 2nd respondent, is hereby set aside. The 3rd respondent is directed to issue patta in respect of the subject property comprised in Old Natham S.No.157/C1 and New Natham S.No.404/14 situated at Angalakurichi Village, Anaimalai Taluk, Coimbatore District in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dm



To

1. The District Collector,
O/o The District Collector Office,
Coimbatore.

2. The Sub-Collector,
O/o The District Collector Office,
Coimbatore.

3. The Thashildhar,
Taluk Office, Anaimalai,
Pollachi Taluk,
Coimbatore District.

+1cc to Mr.S.Makesh, Advocate, S.R.No.66552

+1cc to the Government Pleader, S.R.No.67479

W.P.No.17276 of 2021

BS (CO)
RGA(06/01/2022)