

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.5018 of 2016

S.Krishnan  
S/o.Subramani

... Petitioner

Vs.

1.The Assistant Director,  
District Ex-Servicemen's Welfare Office,  
Salem

2.The Thasildar,  
Salem West,  
Salem District.

... Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings in Muu.Mu.3981/2012/A6 dated 04.10.2012 and Na.ka.666/2015/A1 dated 25.06.2015 and quash the same and consequently direct the second respondent to issue patta for the lands to an extent of 1.05 Acres in Survey No.11/2 in Atthikuttai, Iyamperumapatti Village, Salem Circle, Salem District in favour of the heirs of Late K.Subramani.

For Petitioner : Mr.K.S.Karthik Raja

For Respondents: Mr.Venkatesh Kumar  
Government Advocate

ORDER

This writ petition is filed for issuing a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings in Muu.Mu.3981/2012/A6 dated 04.10.2012 and Na.ka.666/2015/A1 dated 25.06.2015 and quash the same and consequently direct the second respondent to issue patta for the lands to an extent of 1.05 Acres in Survey No.11/2 in Atthikuttai, Iyamperumapatti Village, Salem Circle, Salem District in favour of the heirs of Late K.Subramani.

2.In the affidavit filed in support of the writ petition, it is stated that the petitioner is in possession and enjoyment of the property measuring to an extent of 1.05 acres in Survey No.11/2 in Attikuttai, Iyamperumapatti Village, Salem Cricle, Salem District. The petitioner states that his father by name K.Subramani is an Ex-serviceman and he was a sepoy during the Second World War. It is stated that the land was assigned in favour of his father and that his father was in possession and enjoyment of the property. Based on the continuous enjoyment of the property, the petitioner's father approached the respondents for grant of patta. After the petitioner's father's death, the petitioner approached the respondents for grant of patta as a legal heir. The request of the petitioner was turned down earlier by proceedings dated 04.10.2012 and again subsequently by the impugned order dated 25.06.2015. Challenging the above said order, the writ petition is filed.

3.The learned Government Advocate appearing for the respondent submitted that the petitioner has not produced any assignment in favour of his father to show that the land was originally assigned to his father by the government under any scheme. He further submitted that the petitioner's representation was considered and turned down. It is stated that the property is located within 16 Kilometres from the Salem Corporation and therefore, the petitioner is not entitled to seek assignment for free house site patta or for other purpose. When there is no assignment, enjoyment of petitioner's father even if it is true cannot confer any right. Without establishing his right, the petitioner cannot challenge the order refusing to grant patta.

4.In the facts and circumstances of this case, this Court has no power or authority to direct the respondents to grant patta and hence this Court does not find any merit in this case. Accordingly, this writ petition is dismissed. No Costs.

Sd/-

सत्यमेव जयते  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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Copy to

1.The Assistant Director,  
District Ex-Servicemen's Welfare Office,  
Salem

2.The Thasildar,  
Salem West,  
Salem District.

+1cc to Mr.K.S.Karthikraja, Advocate, S.R.No.10094  
+1cc to the Government Pleader, S.R.No.9929

W.P.No.5018 of 2016

SS(CO)  
CB(12/07/2021)



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