



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

WEB COPY

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.19397 of 2021

V.Ragupathi

... Petitioner

-Vs-

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

2.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

3.The Tashildar,
Jayankondam Taluk Office,
Jayankondam,
Ariyalur District.

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the Respondents to consider the petitioner's representation dated 02.07.2021 and issue the Patta in the petitioner name in respect of land comprised in Old Survey No.444, New Survey No.483/2A measuring to an extent of 74 ½ Cents in Udayarpalyam(E) village & Taluk, Ariyalur District taking into consideration the order of the Hon'ble District Munsif Court, Jayankondam in O.S.No.237 of 2007 dated 04.08.2008 and pass orders accordingly.

For Petitioner :: Mr.R.Amardeep
(For Tamizh Law Firm)

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)



ORDER

The relief sought for in this writ petition is for a direction to the Respondents to consider the petitioner's representation dated 02.07.2021 and issue the Patta in the petitioner name in respect of land comprised in Old Survey No.444, New Survey No.483/2A measuring to an extent of 74 ½ Cents in Udayarpalyam(E) Village & Taluk, Ariyalur District taking into consideration the order of the Hon'ble District Munsif Court, Jayankondam in O.S.No.237 of 2007 dated 04.08.2008 and pass orders accordingly.

2. The learned counsel for the petitioner would submit that the petitioner has acquired the land in Old Survey No.444, New Survey No.483/2A to an extent of 74 ½ cents, in Udayarpalayam (E) Village, Ariyalur District coming under the jurisdiction of the respondents, by virtue of Settlement Deed dated 28.08.2017 in Document No.1316 of 2017 on the file of the Sub-Registrar, Udayarpalayam from his father. Ever since the aforesaid Settlement, the petitioner is in possession and enjoyment of the said property without any hindrance from anybody.

3. It has been further submitted that even before the execution of the said settlement deed, the father of the petitioner filed a suit in O.S. No.237 of 2007 for mandatory injunction against the respondents for the relief of to change of Patta in his name and change the old Village Revenue Records and F.M.B. Sketch as per old Documents and the same was allowed by the Hon'ble District Munsif Court, Jayankondam on 04.08.2008. After obtaining the order from the Trial Court, the father of the petitioner approached the 3rd respondent in person on 31.10.2008 and 25.02.2009 wherein he was informed that as per the order of the Trial Court, mutations will be done by them in the Revenue Records and Patta. However, the 3rd respondent has neither inspect the property nor carried out survey along with surveyor in the said property and thereby he failed to execute the order of the Trial Court. The Act of the 3rd respondent amounts to gross violation and the 3rd respondent has acted outside the purview of law in disposing of the application made by the petitioner's father either favorably or denying the same. Thereafter, the father of the petitioner sent another representation again to all the respondents through Registered Post on 23.04.2009 and visited them in person on 25.06.2009.



While the petitioner's father paid requisite fees along with his representation dated 31.08.2009 for the survey of the land as stipulated by Law and on 03.06.2010, he gave another representation in front of Jamabandhi Office, which was also ignored by the respondents. On 15.02.2017, the 3rd respondent sent a letter to the petitioner's father, requiring him to remove the Karuvelam Trees in the said land. This letter issued by the 3rd respondent clearly substantiates the fact that the petitioner's father is the possession and enjoyment of the said property as the communication addressed to the Lawful owner of the land. Thereafter, the petitioner's father sent representations to the respondents on 24.04.2017 and 25.05.2017. It is pertinent to note that though the aforesaid representations was numbered in Jamabandhi as Petition No.2017/9005/17/535530/0525 dated 25.05.2017, the 3rd respondent has not considered the same. While being so, the father of the petitioner executed a Settlement Deed dated 28.08.2017 in favour of the petitioner in Document No.1316 of 2017 on the file of the Sub-Registrar, Udayarpalayam. As the said property was devolved upon the petitioner herein by way of the aforesaid Settlement Deed, the petitioner approached the 3rd respondent for mutation of revenue records in his name after paying the requisite fees for surveying the said property on 12.12.2017. Despite several attempts made by the petitioner in person, the respondents failed to either inspect the property nor survey the land with a surveyor and also failed to consider the Judgment dated 04.08.2008 passed by the Trial Court in O.S. No.237 of 2007. \

4. The learned counsel for the petitioner further submitted that under the scheme of "Mavatta Atchiyarin Sirapu Kurai Theerkum Mugaam", the petitioner made a representation dated 02.08.2019 before the 1st respondent and though the same was numbered as Application No.74/JKM, no action was taken by the respondents herein. Thereafter, the petitioner applied for Patta transfer through E-Service on 02.07.2020 vide Application No.2020/0103/17/130507, and the same is pending before the respondents for the past one year. Therefore, the petitioner has sent another representation dated 30.06.2021 to the 3rd respondent through Registered Post as a reminder. In the aforesaid circumstances, the petitioner is left with no other alternative and efficacious remedy to approach this Court by invoking under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents as prayed for.



5. The learned Government Advocate appearing for the respondents would submit that even though the petitioner's father and petitioner have made lot of representations, the petitioner has not produced the relevant documents of the property with the Writ petition. However, as the petitioner is said to have applied an application through on-line vide Application No.2020/0103/17/130507 dated 02.07.2020, the respondents may be directed to consider his application after verifying the relevant documents pertaining to the said property.

6. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on record.

7. On a perusal of the typed set of papers, it is seen that the father of the petitioner has filed a suit in O.S. No.273 of 2007 before the District Munsif Court, Jayankondam seeking for declaration and Permanent Injunction restraining the respondents not to issue Patta to others after letting in Evidence in Ex.P1 to Ex.P11 and M.O.1 and M.O.2. The Trial Court passed an ex-parte order in O.S. No.273 on 04.08.2008 as there was no appearance on the side of the defendants. However, there is no material available before this Court whether any appeal has been filed by the Revenue Authorities against the Judgment dated 04.08.2008 in O.S. No.273 of 2007 and relevant documents relied by the petitioner herein for claiming the said property. Under such circumstances, this Court is of the considered view without going into the merit of the case, the respondents shall pass appropriate orders on the representations made by the petitioner herein and on-line application No.2020/0103/17/130507 dated 02.07.2020, filed by the petitioner in accordance with law after affording sufficient opportunity to the petitioner herein within a period of four months from the date of receipt of copy of this order.

8. With the aforesaid directions, the Writ petition stands disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar



WEB COPY

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+1cc to M/s.R.Amardeep for Tamizh Law Firm, Advocate S.R.No.46352
+1cc to the Government Pleader, S.R.No.47176

W.P. No.19397 of 2021

KJ(CO)
SB(27/10/2021)