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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.25686 OF 2014 AND
M.P.NO.1 OF 2014

F.Gulsum Bee

... Petitioner

Vs.

1. The District Collector,
Chennai District,
Singravelan Malagai, Chennai.

2. The Tahsildar,
Mylapore Taluk,
Chennai - 600 028.

... Respondents

PRAYER:- Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in ஓ.மு.க.எண் அ 2/TR/426/14 dated 08.05.2014 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to process the application dated 24.02.2014 submitted by the petitioner for issuance of Patta in respect of the property bearing New Door No.14, Old Door No.13/1, and 13/2, Sivaprakasam Lane, Narasingapuram, Chennai - 600 002, comprised in R.S.No.3361/17 part without insisting rectification deed in respect of the present Survey No.1336/22.

For Petitioner : Dr.C.Ravichandran

For Respondents : Ms.Akila Rajendran
Counsel for Government

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus calling for the records pertaining to the impugned order in ஓ.மு.க.எண் அ 2/TR/426/14 dated 08.05.2014 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to process the application dated 24.02.2014 submitted by the petitioner for issuance of Patta in respect of the property bearing New Door No.14, Old Door No.13/1 and 13/2, Sivaprakasam Lane, Narasingapuram, Chennai - 600 002, comprised



in R.S.No.3361/17 part without insisting rectification deed in respect of the present Survey No.1336/22.

2. The case of the petitioner is that, the property bearing New Door No.14, Old Door No.13/1 and 13/2, Sivaprakasam Lane, Narasingapuram, Chennai - 600 002, comprised in R.S.No.3361/17 part belonged to the mother of the petitioner one Ummahani Bi, who acquired the same under the registered sale deed dated 27.07.1964. The petitioner's mother died on 17.12.1980 leaving behind the petitioner's father and her sister. The father of the petitioner died on 04.03.1985 leaving the petitioner's sister as well as the petitioner as legal heirs. Therefore, both have become the absolute owner of the said property, the petitioner's sister also died on 23.10.2003 leaving behind the legal heirs viz., her husband, daughters and sons. While that being so, the petitioner made an application on 24.02.2014 to the 2nd respondent seeking for change of patta in the name of the petitioner and other legal heirs of the petitioner's sister, since no action was taken, one of the owners of the petitioner has sent a petition on 05.05.2014 to the 2nd respondent.

3. Thereafter, on receipt of said petition, the 2nd respondent has sent a impugned reply dated 08.05.2014 stating that, the present Survey Number i.e., S.No.3361/22, however, is mentioned as S.No.3361/17 part dated 27.07.1964 through which the petitioner and other legal heirs inherited the property. Therefore, a rectification deed, in this regard, to be made and to be presented, then only the plea of the petitioner to issue patta in the name of the petitioner and other legal heirs in respect of the subject property would be considered. Challenging the said order of the 2nd respondent dated 08.05.2014, the present writ petition has been filed with the aforesaid prayer.

4. Heard Dr.C.Ravichandran, learned counsel appearing for the petitioner, who would submit that, the sale deed dated 27.07.1964, legal heir certificate dated 02.04.1987, application submitted on 24.02.2014 and further application dated 05.05.2014 are the documents related to the issue raised in this writ petition and having receipt of all those documents only the 2nd respondent has passed the present order dated 08.05.2014.

5. In this regard, the learned counsel would submit that, the S.No.3361/17 part, as has been mentioned in the sale deed, is the correct survey number and moreover, the sale deed is of the year 1964 since then the property is in possession and enjoyment of the petitioner's mother and subsequently to the petitioner and other legal heirs. When that being so, the question of making any rectification deed, at this juncture, does not arise. Therefore, the said reason stated in the impugned order of the 2nd respondent shall not hold good,



therefore, the same is liable to be interfered with.

6. Per contra, Ms.Akila Rajendran, learned Government Counsel appearing for the respondents, on instructions, would submit that, the S.No.3361/17 part included within the subsequent sub division number i.e., S.No.3361/22 and documents pertaining to the survey number is missing in the online and no documents available with the respondents Department. Therefore, in this regard, if the petitioner is able to produce the available documents i.e., the copy of the documents, as referred to in this writ petition, before the 2nd respondent, he would forward the same to the Revenue Divisional Officer concerned for issuance of patta, as claimed by the petitioner, after verifying those documents.

7. In this regard, in support of her contention, the learned Government Counsel has relied upon the latest instruction dated 06.07.2021 given by the 2nd respondent, which reads thus:

"Kind attention is invited to the reference cited.

Thiru.F.Gulsum Bee W/o T.A.Fazallullah (Late) has filed a Writ Petition before the Hon'ble High Court of Madras in W.P.No.25686 of 2014 with a request to change of patta.

In this regard, the survey number S.No.3361/17 part includes subsequent sub division number also viz 3361/22 is missing in online. The petitioner not submitted related documents. Hence the petitioner requested to submit related documents and latest EC for onward proposal to Revenue Divisional Officer, Guindy for issuing of patta."

8. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. Now the issue has been narrowed down, where, the 2nd respondent, in his instruction, has stated that the S.No.3361/17 part included in the sub division S.No.3361/22. However, in order to verify the same, since no such documents pertaining to the said survey numbers are available in the online of the respondents office, they wanted to collect documents or rely documents in this regard from the petitioner. In this regard, the learned counsel appearing for the petitioner also has rightly agreed to produce those documents, which have been filed before this Court in the typed set of papers, as has been referred to above, within a shortest possible time and on



production of the same from the hands of the petitioner, let him go through the same and forward those documents with his comments to the Revenue Divisional Officer for issuance of patta as claimed by the petitioner.

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10. In view of the said submission made by both sides and by taking into account the said stand taken by the 2nd respondent through his written instruction dated 06.07.2021, as quoted herein above, this Court is inclined to dispose of this writ petition with the following orders:

That the impugned order, in view of the aforesaid, need not be given effect to, therefore, it is liable to be set aside, accordingly, it is set aside. Consequently, the matter is remitted back to the 2nd respondent for reconsideration. While reconsidering the same, the documents, referred to above i.e., from the sale deed dated 27.07.1964, whatever the other documents available pertaining to the property in question with the petitioner, shall be produced to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 2nd respondent, after having considered those documents, shall forward the same with his comments to the Revenue Divisional Officer, Guindy, who is the competent authority, according to the 2nd respondent as per his instruction dated 06.07.2021 for further action. The Revenue Divisional Officer, Guindy also on receipt of such documents, with the comments of the 2nd respondent, shall look into the same and pass necessary orders for grant of patta to the property in question to and in favour of the petitioner and other legal heirs. The needful, as indicated above, shall be undertaken by the Revenue Divisional Officer within eight weeks period thereafter.

11. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

Sgl



To

1. The District Collector,
Chennai District,
Singravelan Malagai,
Chennai.

2. The Tahsildar,
Mylapore Taluk,
Chennai - 600 028.

3. The Revenue Divisional Officer,
Guindy.

+1cc to Dr.C.Ravichandran, Advocate, S.R.No.31681

+1cc to the Government Pleader, S.R.No.32012

W.P.NO.25686 OF 2014

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PBS/03/08/2021