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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.20376 of 2021

S.C.Ponnusamy

... Petitioner

-Vs-

1. The District Collector,
Salem District,
Salem-636001.
2. The Tahsildar,
Salem Taluk,
Kannankuruchi Main Road,
Hasthampatti,
Salem-636007.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to issue patta in the name of the petitioner in respect of the land measuring 174 sq.ft. in T.S.No.108 (Old T.S.No.55/1) in Block 8, Ward J, Hasthampatti Village, Salem Corporation, Salem Taluk, forthwith.

For Petitioner : Mr.P.Jagadeesan
For Respondents: Mr.A.Selvendran
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the second respondent to issue patta in the name of the petitioner in respect of the land measuring 174 sq.ft. in T.S.No.108 (Old T.S.No.55/1) in Block 8, Ward J, Hasthampatti Village, Salem Corporation, Salem Taluk, forthwith.

2. Heard Mr.P.Jagadeesan, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Government Advocate appearing for the respondents.

3. The property comprised in T.S.No.55/1 ad-measuring 174 sq.ft and the property ad-measuring 11546 sq.ft comprised in T.S.No.55/2 in Ward B, Block 8, Hasthampatti, Salem, was purchased by the petitioner's mother by a registered sale



deed, dated 09.03.1970 from one K.V.Lakshmi Kutti Ammal. The entire property was fenced by a compound wall constructed by her vendor on all four sides. In fact, the petitioner's mother also applied for Town Survey Land Register extract for the said property before the Commissioner of Salem and she was issued Town Survey plan and T.S.L.R. extract only for T.S.No.55/2 and not for T.S.No.55/1 for the reason that the land comprised in T.S.No.55/1 is classified as "Government Poramboke (Lane)".

4. Therefore, the petitioner's mother filed a suit in O.S.No.316 of 2006 on the file of the Additional Subordinate Judge, Salem for declaration, declaring that the property ad-measuring 174 sq.ft in T.S.No.55/1 in her favour and for permanent injunction. The said suit was decreed after contest by the respondents by the Judgment and Decree, dated 14.02.2008. Aggrieved by the same, the respondents did not prefer any appeal suit so far and thus the Judgment and Decree passed by the learned Additional Subordinate Judge, Salem, dated 14.02.2008 has attained finality.

5. Thereafter, the said property was settled in favour of the petitioner who is being the son of Vishalakshi Ammal by way of settlement deed, dated 29.01.2007. On the strength of the settlement deed, the petitioner applied for issuance of Patta before the second respondent on 09.07.2020 for the property comprised in T.S.No.55/1 (New T.S.No.108) to an extent of 174 sq.ft.

6. That apart, the petitioner have duly registered the Judgment and Decree passed in O.S.No.316 of 2006 on the file of the Additional Subordinate Judge, Salem before the Joint Sub Registrar, Salem West, as Document No.1945 of 2008, dated 06.05.2008. Even then, the second respondent is simply keeping the application as pending and did not consider the same.

7. In view of the above, the second respondent is directed to issue patta in the name of the petitioner in respect of the land ad-measuring 174 sq.ft comprised in T.S.No.55/1 (New T.S.No.108) situated in Block 8, Ward J, Hasthampatti Village, Salem Corporation, Salem Taluk, within a period of four weeks from the date of receipt of a copy of this order.

8. It is also made clear, that the second respondent can also verify whether any appeal preferred as against the Judgment and Decree passed in O.S.No.316 of 2006, dated 14.02.2008. If any appeal preferred by the respondents, the application submitted by the petitioner can be considered subject to the result of the appeal suit.



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9. With the above direction, this writ petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem District,
Salem-636001.
2. The Tahsildar,
Salem Taluk,
Kannankuruchi Main Road,
Hasthampatti,
Salem-636007.

+1 cc to Mr.P.Jagadeesan, Advocate Sr.NO. 57754
+1 cc to Government Pleader Sr.NO. 57868

W.P.No.20376 of 2021

PM(CO)
A.SK(26.11.2021)