



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.20707 of 2021

Minor V. Elumalai
Represented by his mother and natural
guardian V. Parvathi

...Petitioner

Versus

1. The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Cheyyar,
Thiruvannamalai District,
2. The Tahsildar,
O/o. The Tahsildar,
Vandavasi,
Thiruvannamalai District - 604 408.

3. P. Jalani @ Janaki

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to consider and pass orders on the Appeal dated 28.07.2021 submitted under Patta Passbook Act for seeking cancellation of false patta issued in favour of the third respondent namely Jalani @ Janaki, W/o.E.Palani for the land in Survey No.248/9 Thakkandrayapuram Village, Vandavasi Taluk, Thiruvannamalai District, and restore the land as a pathway.

For Petitioners : Mr.V.R.Appaswamee

For RR 1&2 : Mr.Yogesh Kanndasan
Government Advocate.



ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to consider and pass orders on the appeal dated 28.07.2021 submitted under Patta Passbook Act for seeking cancellation of false patta issued in favour of the third respondent namely Jalani @ Janaki, W/o.E.Palani for the land in Survey No.248/9 Thakkandrayapuram Village, Vandavasi Taluk, Thiruvannamalai District, and restore the land as a pathway.

2. The case of the petitioner is that the property is an ancestral property in Aarasur Village and his father E.Palani purchased a property measuring to an extent of 2 Acres 0.01 ½ Cents in Survey No.407/1B in Aarasur Village. On 25.05.2011, the legal heirs of Elumalai Pillai namely (i) Lakshmi Ammal, (ii) Munniyammal, (iii) E.Palani and the petitioner herein and had entered into a partition deed registered as Document No.2024 of 2011 and partitioned among themselves. The aforesaid Lakshmi Ammal and Muniyammal released their respective shares after getting a sum of Rs.5,000/- each. As per the partition deed dated 25.05.2011, the petitioner and E.Palani got an equal share of 99 Cents (40 ares) each measuring in the total extent of Survey No.407/1B in Aarasur Village. Thereafter, they have to access their patta land in Survey No.407/1B only through Poramboke land situated in Survey No.248/9 of Thakkandrayapuram Village. On 06.04.2017, they purchased Mr.E.Palani's share in Survey No.407/1B of Aarasur Village by way of sale deed in Document No.718 of 2017 and enjoying the same. After selling his share, Mr.E.Palani (the petitioner's husband's brother) by misleading the facts and circumstances before the Revenue Authorities and got a patta in favour of his wife namely P.Jalani @ Janaki in Survey No.248/9 of Thakkandrayapuram Village, which is classified as Poamboke land and started to construct their own house. Subsequently, he had to access his Patta land in Survey No.407/1B of Aarasur Village only through the land in Survey No.248/9 of Thakkandrayapuram Village. Therefore, the petitioner sent a detailed representation dated 28.07.2021 to the first and second respondents to cancel the Patta issued in the name of the third respondent herein, but the respondents have not taken any steps on the petitioner's representation. However, the petitioner sent another representation by way of an appeal dated 28.07.2021 to the first respondent/Revenue Divisional Officer explaining the above facts and to restore the pathway land in Survey No.248/9 of Thakkandrayapuram Village, which is Poramboke land. Till date, no action has been taken by the respondents. Hence, the petitioner has no other alternative remedy except to approach



this Court under Article 226 of the Constitution of India.
Hence this petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the respondents to consider the petitioner's appeal dated 28.07.2021 and dispose of the same within a stipulated time that may be framed by this Court.

4. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's appeal or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the respondents to consider the petitioner's appeal dated 28.07.2021 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and necessary parties concerned within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

gba

To

1. The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Cheyyar,
Thiruvannamalai District,

2. The Tashildar,
O/o. The Tashildar,
Vandavasi, Thiruvannamalai District - 604 408

+1CC to Mr.V.R.Appaswamee, Advocate, Sr.No.50188
+1CC to Mr.Government Pleader, Sr.No.50864

W.P.No.20707 of 2021

SMI (CO)
K.RK. (02.11.2021)