



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.21116 of 2021

K. Gnanaprakasam

...Petitioner

-Vs-

1.The District Collector (Revenue)
Perambalur,
Perambalur District.

2.The District Revenue Officer,
Perambalur, Perambalur District

3.The Revenue Tahsildar,
Alathur Taluk,
Perambalur District.

...Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for to issue Writ of Mandamus directing the 2nd Respondent to dispose of the Appeal petition given by the petitioner dated 01.02.2021 for correction of patta and pass orders accordingly.

For Petitioner :: Mr. K.R. Krishnan

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

O R D E R

This Writ Petition has been filed under Article 226 of the Constitution of India, praying for to issue Writ of Mandamus directing the 2nd Respondent to dispose of the Appeal petition given by the petitioner dated 01.02.2021 for correction of patta and pass orders accordingly.

2.The learned counsel for the petitioner would submit that the petitioner's father S.Karuppu Udayar died 04.08.2011 leaving behind two sons and three daughters as his legal heirs. The petitioner's father had executed a Will in the presence of witnesses on 09.08.2010. As per the Will dated 09.08.2010, the property of the petitioner's father was divided into 3 schedule properties as "A", "AA", "E". Out of the Will, "A" Schedule property is to be enjoyed by the petitioner herein exclusively



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and "AA" Scheduled property is to be enjoyed exclusively by Sivasamy who is petitioner's brother and "E" scheduled is to be enjoyed in common by both the petitioner and his brother Sivasamy since the 3 daughters by name 1) Malarvizhi 2) Arasu @ Tamilarasu 3) Mangarkaran have been married and well settled life by the petitioner's father. Hence, the said properties were bequeathed to the petitioner and his brother by way of Will. However, the Tahsildar had created a lot of confusion by issuing 3 patta for schedule mentioned property in the Will. The Patta No.94 was issued including the petitioner's name and in the name of Sivasamy and Patta No.901 in the name of all, all the 5 legal heirs of Karuppu Udayar and Patta No.1153 in the name of all the five legal heirs. But, as per the Will of Karuppu Udayar, the petitioner's share in respect of the properties of the petitioner have left out. Being aggrieved by the same, on 01.02.2021, the petitioner made a representation seeking for to correct the mistake and issue patta in the name of the petitioner, his brother Sivasamy and also in their joint names as per the Will of the petitioner's 09.08.2010 having enclosed all the necessary documents that may be treated as appeal under the Sec. 14 of the Patta Pass Book Act 1983. Based on the petition for correction of Patta application (Appeal), the District Collector and the Revenue Tahsildar by their official letter dated 20.01.2021 and 18.01.2021 had directed, the Zonal Deputy Tahsildar, Alathur to conduct a detailed enquiry and send a report in the regard. The report is awaited without any progress even after the aforesaid directions made by the authorities concerned.

3. It has been further submitted that by wrong advise, the petitioner filed suit in O.S.No.52/2018 for issue of patta in his name before the District Munsif Court, Alathur. After came to know that Sec.14 of Patta Pass Book Act, 1963 bars the filing of any suit in the Civil Court regarding issue of patta and hence the petitioner already instructed his Advocate to withdraw the suit. Even after passing six months for filing report, the Zonal Deputy Tahsildar has neither file report nor conduct any enquiry in this regard. Under such circumstances, the other persons are trying to dispose of certain properties by using the mistake in patta. Hence, the petitioner wants early disposal of the petitioner's Appeal dated 01.02.2021 pending on the file of the 2nd respondent. Hence, the petitioner has no other alternative remedy except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus directing the 2nd respondent to dispose of the aforesaid Appeal filed by him.

4. The learned Government Advocate for the respondents would submit that the respondents may be directed to dispose of the Appeal filed by the petitioner herein within a time frame as fixed by this Court.



5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

6. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, this Court without expressing any opinion with regard to the merit of the case, directs the respondents to dispose of the Appeal dated 01.02.2021 filed by the petitioner herein for correction of the Patta issued by the authorities concerned within a period of three months from the date of receipt of copy of this order in accordance with Law after conducting enquiry and verifying the Will dated 09.08.2010.

7. In the result, the Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Lbm

To

1.The District Collector (Revenue)
Perambalur,
Perambalur District.

2.The District Revenue Officer,
Perambalur, Perambalur District

3.The Revenue Tahsildar,
Alathur Taluk,
Perambalur District.

+1cc to Mr.K.R.Krishnan, Advocate SR. No.50731
+1cc to the Government Pleader SR. No.51606

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BS (CO)
PR (06/12/2021)