



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.22045 OF 2021

M/s.Arma Medical Foundation,
represented by its Director
Dr.M.Arulpitchai Narayanan

... Petitioner

.Vs.

1. The Tahsildar,
Purusalwakkam,
Chennai-600 007.
2. The Revenue Divisional Officer,
North Chennai,
Chennai

... Respondents

PRAYER:-

This Writ Petition is filed under Section 226 of Constitution of India to issue a Writ of Mandamus directing the 1st respondent to pass appropriate orders on the petitioner's application 18.02.2020 for modification of Patta in terms of Section 10 of the Tamil Nadu Patta Passbook Act, 1983 within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the petitioner's application 18.02.2020 for modification of Patta in terms of Section 10 of the Tamil Nadu Patta Passbook Act, 1983 within a reasonable time frame.



2. The petitioner in his affidavit averred that the petitioner company is a non-government company registered under the erstwhile Companies Act, 1956 and is engaged in carrying out medical services by undertaking research activities in medical field and to help the poor and needy people and to provide medical care and assistance of sick persons irrespective of caste, community or creed by acquiring, construction or maintaining hospitals, dispensaries, clinics, laboratories, nursing homes, and treatment of persons requiring medical attention and rehabilitation, solely for charitable purposes, without any profit motive.

3. The petitioner company was gifted with a land measuring 4500 sq.mt situated in RS No.3149/1, Block No.54, Ward No.001, Purasawalkam Town, Purasawalkam Taluk, Chennai, by one Shri.M.Arul Nayagam, vide gift deed dated 28.04.1993 registered as document No.823 of 1994 with the District Registrar Office, Madras Central. The said M.Arul Nayagam was the power of attorney agent of Mr.T.Govindarajulu, who had in turn obtained the above-mentioned property by way of a sale conducted in furtherance of the proceedings for execution of award No.638/52-53 dated 18.01.1954 passed by the Deputy Registrar of Cooperative Societies, Madras in E.P.No.48/1960-61. The said T.Govindarajulu was issued with a sale certificate in Form No.10 dated 29.03.1963 in terms of Rule XXIII(10)(y) of Madras Cooperative Societies Act. The Petitioner became the absolute owner of the above mentioned property in 1993 and the petitioner's name is also reflected in the Encumbrance Certificate by way of Gift Deed dated 28.04.1993 was presented for registration on the same date. The said document was kept pending and subsequently assigned regular document No.823/1994. The said Govindarajulu had revoked the power of attorney dated 05.07.1989 given to Arul Nayagam as per the revocation dated 22.03.1994, registered as document No.334/1994. The said power of attorney is coupled with interest, given by T.Govindarajulu to M.Arul Nayagam, after receipt of full payment on sale consideration from Arul Nayagam. However, this revocation took place after the registration of the Gift Deed in favour of the petitioner. The power of attorney deed dated 05.07.1989 is not a simple power of attorney and is coupled with interest and therefore, the said T.Govindarajulu was not having any authority to revoke the power of attorney deed dated 05.07.1989 and the legal position appears to be that the death of T.Govindarajulu on 03.11.1994 will not invalidate the gift dated 28.04.1993.

4. The petitioner further averred that the legal heirs of the said T.Govindarajulu had applied for an encumbrance certificate and the Registration Department had issued a Certificate of Encumbrance dated 18.05.2015, which shows the name of the applicant as one T.G.Dhamodaran, who is the son of



T.Govindarajulu. In the said encumbrance certificate, the name of the claimant is shown to be M/s.Arma Medical Foundation, the petitioner herein. The heirs of the T.Govindarajulu had applied and obtained encumbrance certificates many times both after and before the date when their names entered in the Patta. The said legal heirs were aware of the transfer of the subject property in 1993 itself and they are aware that their father T.Govindarajulu had received full payment for the said property from M.Arul Nayagam before transfer of property to power of Attorney as mentioned above. Despite the fact that the legal heirs of T.Govindarajulu were aware and conscious of the fact that the petitioner is the owner of the subject property, with malafide intention they changed the patta in their name and the petitioner suspects that this has happened with the active collusion of the jurisdictional Tashildar.

5. The petitioner further averred that the encumbrance certificate of the said property clearly shows the petitioner as the claimant and there is no entry of any other document for transaction, which could even remotely imply any other person claiming the ownership of the said property. When the petitioner verified the patta in respect of the said property, it came to his notice that patta bears the entries of names of the legal heirs of T.Govindarajulu. In the above circumstances, the petitioner had filed an application dated 18.02.2020 with the 1st respondent for transfer of patta to their name and for modification of the patta in terms of Section 10 of the Tamil Nadu Patta Passbook Act, 1993. The 1st respondent did not process the said application despite repeated reminders in person and the petitioner also sent letters dated 03.03.2020, 05.03.2020, 02.02.2021 requesting the 1st respondent to process the application filed for patta transfer. As there was no response forthcoming, the petitioner also escalated the matter to the RDO on 26.12.2020, Collector, Revenue Secretary on 05.02.2021 and to the CM Cell in November, 2020. After the matter was escalated, the 1st respondent issued a communication dated 18.11.2020 informing the petitioner that as the patta records were earlier maintained by the office of the Tashildar at Perumbur, intimation has been sent to the Perumbur Tashildar to send back records, after which the petitioner's application would be forwarded to the 2nd respondent for further consideration of the petitioner's claim. It is learnt by the petitioner that the Tashildar, Perumbur has informed the respondent that no records are available in respect of the file number which was intimated to her. There was no further response from the 1st respondent after the said communication.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and also perused the materials on record.



7. On a perusal of records, it could be seen from the encumbrance certificate produced by the petitioner that one M.Arul Nayagam, who is the power of attorney agent had executed a gift deed on behalf of the principal Mr.J.Govindarajulu, in favour of M/s.Amma Medication Foundation, to an extent of 4500 sq.mts situated in RS No.3149/1 and the same was presented for registration on 28.04.1993. The learned counsel for the petitioner submits that on 18.11.2020, the 1st respondent issued a communication to the petitioner informing that an intimation has been sent to the Tahsildar, Perambur seeking to send back the records and only after the receipt of records, he would forward the petitioner's application to the 2nd respondent for further consideration. But, no action has been taken on the representation of the petitioner till date.

8. Without going into the merits of the case, this Court directs the 1st respondent to consider the representation of petitioner after holding enquiry and also giving opportunity of hearing to the petitioner and other interested parties, and pass orders on merits and in accordance with law within a period of four months from the date of receipt of copy of this order.

9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Purusalwakkam,
Chennai - 600 007.
2. The Revenue Divisional Officer,
North Chennai, Chennai.

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.54102
+1cc to the Government Pleader, S.R.No.54240

W.P.NO.22045 OF 2021

NRJK(CO)
PBS/12/11/2021