



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.22853 of 2021

and

W.M.P.No.24064 of 2021

1. P. Anil
2. R. Vasanthakumari
3. B. Sunitha
4. A. Subala

...Petitioners

Versus

1. The Commissioner of Land Administration,
Chepauk, Chennai.
2. The District Revenue Officer,
Chennai.
3. The Revenue Divisional Officer,
Tambaram, Kancheepuram District.
4. The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Kancheepuram District.

...Respondents

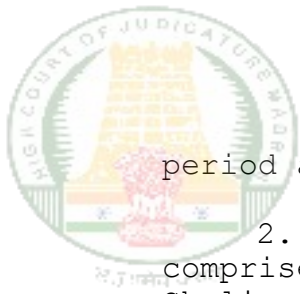
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to survey the property at Survey No.602/8, Village No.51, Shollinganallur Village, Tambaram Taluk on the petitioners application dated 10.08.2021 within a stipulated period as fixed by this Hon'ble Court.

For Petitioners : Mr. S.Parthasarathy

For Respondents : Mr. V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed seeking for a direction to the 2nd respondent to survey the property at Survey No.602/8, Village No.51, Shollinganallur Village, Tambaram Taluk on the petitioners application dated 10.08.2021 within a stipulated



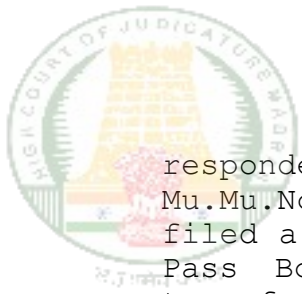
period as fixed by this Court.

2. The case of the petitioners is that the property comprised in Survey No.602/7 Part at Village No.51, Sholinganallur Village, Tambaram Taluk measuring to an extent of 7 acres, she has also paid necessary taxes on her property and she was continuously in possession and enjoyment of the said property. Thereafter, the Tahsildar, Tambaram had issued enjoyment certificate dated 30.04.1997 to their mother namely P.Thangarathinam and all the Revenue Records stands in the name of in their mother name. On 24.10.2007, out of love and affection, she executed a separate Settlement Deed in favour of the petitioners, settling the land to them. Subsequently, the petitioners have approached the 4th respondent to issue Patta in their favour as per the Government Order in G.O.(Ms). No.555/2006. However, the 2nd respondent has rejected their request, stating that the property has been allotted to ELCOT by order dated 07.06.2007. Aggrieved by the same, the petitioner has challenging the same, by way of filing W.P.Nos.26939 and 26942 of 2011, after perusing the records, this Court directed the 4th respondent to conduct a fresh enquiry and pass appropriate orders. Based on the said order, the 4th respondent without going through the documents furnished by them has rejected the claim made by the petitioners for grant of patta by order dated 18.11.2014 in Na.Ka.No.4854/11/A2.

3. It is the further case of the petitioners, they had preferred an appeal dated 19.12.2014 before the third respondent/District Revenue Officer, Kancheepuram District to set-aside the order dated 18.11.2014 passed by the 4th respondent. Since no orders have been passed, the petitioners had filed a writ petition in W.P.No.4462 of 2015 before this Court seeking for a direction to the 2nd respondent therein to pass orders in the appeal dated 19.12.2014 within a stipulated period and the same was ordered on 24.02.2015.

"3. As rightly pointed by the learned Government Advocate, the petitioners have filed the appeal before the wrong authority. The petitioners have filed the appeal before the Revenue Divisional Officer and not the District Revenue Officer. Hence, the relief sought for cannot be granted. Hence, this writ petition is dismissed. However, this order will not prevent the petitioners from approaching the Revenue Divisional Officer of the area concerned and if any such appeal is filed, the same shall be considered on merits and in accordance with law, as expeditiously as possible. No costs."

4. As per the above order, on 29.07.2016, the petitioners had preferred an appeal before the 3rd respondent, but, the 3rd



respondent has rejected their claim for grant of patta by letter Mu.Mu.No.259/2016/A, dated 25.09.2017. Thereafter, they had filed a Revision Petition on 30.11.2018 u/s 13 of the Tamil Nadu Pass Book Act, before the 3rd respondent and the same was transferred to the 2nd respondent. The 2nd respondent has also rejected their claim by letter in Na.Ka.No.6243/2019/J10, dated 17.02.2021 by stating that as per G.O.(Ms).No.90, the land Survey No.602/7 measuring to an extent of 50.84.0 hectares, 602/8 measuring to an extent 4.35.0 hectares, totally 55.15.0 hectares has been categorized as forest land and the same is under the custody of the Forest Department and the petitioners have not submitted sufficient documents to establish their case. Following the same, they had also preferred an appeal before the 1st respondent challenging the order passed by the 2nd respondent and the 1st respondent without conducting an enquiry or hearing them has rejected their appeal in Letter No.F3/1069914/2021, dated 27.07.2021 by stating that there is no provision to entertain any appeal or revision against the orders of the 2nd respondent, rejected their request for grant of assignment and as per the provision made under Section 15(15)/15(18) an appeal or revision shall be entertained against the cancellation of assignment or against the grant of assignment already made and that the petition being a request petition, it should only be treated as miscellaneous petition and therefore, forwarded the same to the District Collector, Chennai for taking appropriate action. Against the said order, the petitioners had filed a writ petition in W.P.No.19407 of 2021 and the same is pending before this Court. Thereafter, the petitioners in order to get a clear survey number to their property as the said property was resurveyed and survey number has been changed from Survey No.602/8 from 602/7 as per G.O.(Ms).90 stated by the second respondent by order dated 17.02.2021. On 10.08.2021, the petitioners sent an application to the 4th respondent to survey the said property. After receiving the said application, no action has been taken by the respondents. Therefore, the petitioner has come forward with the present writ petition.

5. The learned counsel appearing for the petitioners submitted that the petitioners will be satisfied if a direction is issued to the second respondent to consider the petitioners application dated 10.08.2021 and pass appropriate orders within a stipulated time that may be framed by this Court.

6. Having regard to the limited scope of the prayer that is now sought 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 petitioners application or the case pleaded by the petitioners in the present writ petition, the Writ Petition is disposed of, the 2nd



respondent/The District Revenue Officer is directed to consider the petitioners application dated 10.08.2021 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and necessary parties within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

sp/msm

To

1. The Commissioner of Land Administration,
Chepauk, Chennai.
2. The District Revenue Officer,
Chennai.
3. The Revenue Divisional Officer,
Tambaram,
Kancheepuram District.
4. The Tahsildar, Sholinganallur Taluk,
Sholinganallur,
Kancheepuram District.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.55236

+1cc to the Government Pleader, S.R.No.55915

W.P.No.22853 of 2021
and
W.M.P.No.24064 of 2021

NMI (CO)
RGA(26/11/2021)