



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23269 of 2021

V.Ali Baksh

... Petitioner

Vs.

1. The District Collector,
Chennai District,
Singaravelar Maligai
Chennai - 600 001

2. The Tahsildar,
Mylapore Taluk Office,
Mylapore, Chennai District

3. Noor Jahan Begum Wakf,
rep. By its Muthavalli

... Respondents

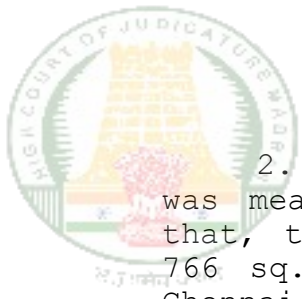
Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to dispose the petitioner's appeal dated 02.08.2021 in pursuance to grant patta in the name of the petitioner for the petitioner's house to an extent of 766 square feet situated at Door No.144, Peters Road, Gopalapuram, Chennai - 600 086 within a time frame.

For Petitioner : Mr.K.Sadhananthan

For Respondents : Mr.Yogesh kannadasan for R1 & R2
Government Advocate

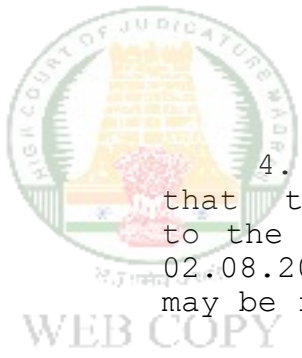
O R D E R

The present Writ Petition is filed for issuance of a Writ of Mandamus directing the 1st respondent to dispose the petitioner's appeal dated 02.08.2021 and grant patta in the name of the petitioner for the petitioner's house measuring to an extent of 766 square feet, situated at Door No.144, Peters Road, Gopalapuram, Chennai - 600 086 within a time frame.



2. The brief facts of the case is that the entire property was measuring to an extent of One ground 750 Sq.Ft., and in that, there is a constructed house measuring to an extent of 766 sq.ft., situated at Door No.144, Peters Road, Gopalapuram, Chennai - 86, the same was originally belonged to Katheeja Begum. Thereafter, petitioner's father, late Basheer Ali, entered as tenant during the year 1948 and the said Katheeja Begum had sold the entire property except the property occupied by petitioner's father and the property occupied by one Puthina Begum to one Habeez shahul hameed. Since the petitioner's father settled at Mumbai, the petitioner and his brother, Raza Ali enjoyed the said property. All of a sudden, the 3rd respondent, viz., Alameen Hassan Raza claiming himself as a Muthavalli of an non-existent and fictitious wakf stated that the said property belongs to 'Noorjahan Begum Wakf' and that he is in possession and enjoyment of the above said property since 1955. In the year 1992, the 3rd respondent had claimed that the property belongs to him and had preferred civil suit in O.S.No.13297 of 1996 on the file of learned I Assistant City Civil Court, Chennai and obtained Decree and Judgment in his favour, the same was decreed on 29.10.1999. The 2nd respondent without considering the fact that the petitioner is in continuous possession for a period of 60 years had given patta in favour of deceased Noorjahan begum rep. By her guardian Wala Hussain and Kadheeja Begum @ Santhu Begum Sahib rep. By Wala Khan on 04.08.2016, who said to have died in the year 2016.

3. It is the further case of the petitioner that the petitioner had settled the property in favour of his son, viz., A.Mir Ali Jaffar on 20.10.2008 and without knowing the factual aspects, the 2nd respondent had given patta in favour of the deceased persons and on 04.08.2016, the 2nd respondent mutated the strangers name, viz., 3rd respondent, therefore, the patta granted has to be cancelled immediately. The 3rd respondent is now claiming right over the property under the guise of similarity in the name of I.e., 'Noor Jahan Begum' but the 3rd respondent, namely, Noor Jahan Begum Wakf', however, the property stands in the name of individual persons, but the 3rd respondent is claiming the property as if its property in the name of similarity. Hence the petitioner preferred statutory appeal narrating all the facts before the 1st respondent for cancellation of patta and issuance of patta in petitioner's name on 02.08.2021 and the 3rd respondent is now claiming title right over the property before the Hon'ble Wakf Tribunal at Chennai in O.A.No.30 of 2021. Seeking to dispose of the appeal dated 02.08.2021 and to grant patta in the name of the petitioner for the petitioner's house measuring an extent of 766 sq.ft., situated at Door No.144, Peters Road, Gopalapuram, Chennai, the petitioner is before this Court.



4. The learned counsel for the petitioner further submitted that the petitioner will be satisfied if a direction is issued to the 1st respondent to consider the petitioner's appeal dated 02.08.2021 and dispose of the same within a stipulated time that may be framed by this Court.

5. Mr.Yogesh Kannadasan, learned Government Advocate appearing for the respondents 1 and 2, on instructions from the officer of the respondents/Departments submitted that a direction may be issued to the 1st respondent to consider the prayer of the petitioner and six months time may also be granted to the 1st respondent to consider the same.

6. 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 case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the 1st respondent to consider the petitioner's appeal dated 02.08.2021 after adhering to the principles of natural justice and pass appropriate orders, on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Chennai District,
Singaravelar Maligai
Chennai - 600 001

2. The Tahsildar,
Mylapore Taluk Office,
Mylapore, Chennai District.

+1 cc to Mr.K.Sadhananthan, Advocate Sr.NO. 56484

+1 cc to Government Pleader Sr.NO. 56627

W.P.No.23269 of 2021

svi(CO)

A.SK(26.11.2021)