

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.32231 of 2017

1. K.Saroja
2. R.Kalaivani
3. K.Kannan
4. K.Sekar

.... Petitioners

-Vs-

The Tahsildar  
Velachery Taluk,  
Taramani 100 Feet Road,  
Chennai - 600 113.

.... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent herein to consider the petitioner's representation dated 22.03.2017 for issuance of patta in favour of the petitioners in view of the Judgment and Decree passed in O.S.No.5005 of 2013, dated 03.02.2014 passed by this II Assistant City Civil Court, Chennai and the petitioners long standing possession of the property at No.52/27, 1st Street Extension, Parameswari Nagar, Adyar, Chennai - 600 020.

For Petitioners : Ms.Karthikaa Ashok

For Respondent : Mr.J.Pothiraj, Spl G.P.  
Government Advocate

O R D E R

The prayer sought for herein is for the issuance of a Writ of Mandamus, directing the respondent herein to consider the petitioner's representation dated 22.03.2017 for issuance of patta in favour of the petitioners in view of the Judgment and Decree passed in O.S.No.5005 of 2013, dated 03.02.2014 passed by the II Assistant City Civil Court, Chennai and the petitioners long standing possession of the property at No.52/27, 1st Street Extension, Parameswari Nagar, Adyar, Chennai - 600 020.

2. The case of the petitioner is that, the petitioners' father claimed to have purchased the property at No.52/27, 1st Street Extension, Parameswari Nagar, Adyar, Chennai - 600 020. Subsequently, they have filed a suit also in O.S.No.5005 of 2013 before the II Assistant City Civil Court, Chennai, where a judgment and decree was passed by the Civil Court on 03.02.2014, declaring the adverse possession of the petitioners, who were the plaintiffs in the suit with regard to the property referred to above.

3. Since the petitioners claim that the property had been purchased by them by unregistered sale deed, subsequently, they got a decree also from the Civil Court with regard to the adverse possession of the property against the original owner. As against the judgment and decree, no appeal further has been filed by the original owner and the judgment and decree has become final and also further, they approached this Court by filing a writ petition in W.P.No.25061 of 2016, seeking a mandamus or direction to the registering authority to register the judgment and decree with regard to the property in question, where a learned Judge of this Court, by order, dated 20.07.2016 passed an order in that writ petition, directing the registering authorities to register the judgment and decree passed by the Civil Court in O.S.No.5005 of 2013. Despite the same, the registering authority has not registered the judgment and decree and that issue is still pursued by the petitioners on the one hand and on the other hand, with regard to the patta in respect of the land in question, which has been declared by the Civil Court as referred to above in favour of the petitioners, they approached the respondent Tahsildar by making a representation on 22.03.2017 seeking to issue a patta in favour of the petitioners in respect of the land. However the said request also having not been considered by the Revenue Tahsildar, the petitioners have approached this Court by filing the present writ petition with the aforesaid prayer.

4. Ms.Karthikaa Ashok, learned counsel appearing for the petitioners, having relied upon all these developments as well as the documents in support of these developments would submit that, though the land in question had been purchased, of course by unregistered sale deed by the father of the petitioners long back, i.e., 60 years back and all along they had been in possession and enjoyment of the property and in that strength they already approached the Civil Court and got a decree in their favour as referred to above by way of adverse possession, as against which, since no appeal has been filed, the said judgment and decree of the Civil Court having become final, the petitioners are very much entitled to get consequential relief, i.e., issuance of patta in their favour for the land in question.

5. In this regard, even though a proper representation has been given on 22.03.2017 to the respondent Tahsildar, so far, the same has not been acted upon. In this regard, it is the further grievance of the petitioners that, once the patta is given to the petitioners, after ascertaining the afore stated facts, they would also be entitled to get the land measured, for which the petitioners are ready and willing to pay the necessary charge and once the land is measured and boundaries are identified, the boundary stones can also be laid, of course at the cost of the petitioners. Therefore, cumulatively for all these things, when the petitioner approached the respondent Tahsildar, no fruitful action since has been taken by them, the petitioners have approached this Court by filing the present writ petition with the aforesaid prayer, therefore the learned counsel seeks indulgence of this Court to issue a suitable direction to the respondent Tahsildar.

6. Per contra, Mr.J.Pothiraj, learned Special Government Pleader appearing for the respondent, Tahsildar would submit that, if at all the petitioners got a Civil Court decree as referred to and on the strength of the Civil Court decree, which according to them, having become final, if they made an application to the respondent Tahsildar as early as on 22.03.2017, certainly that application / representation would be considered by the respondent Tahsildar on merits and in accordance with law and in this regard, if any rival claim comes, after ascertaining the same and by giving an opportunity of being heard to the petitioners as well as the other person who makes any rival claim, the issue with regard to the plea of the petitioners can very well be decided by the respondent Tahsildar within a time frame and therefore a direction can be issued in this regard which would be complied with.

7. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. As has been pointed out by the learned counsel appearing for the petitioners that there has been a Civil Court decree as early as on 03.02.2014 in favour of the petitioners pertaining to the property in question and it is asserted by the learned counsel appearing for the petitioner that, as against the Civil Court decree, no further appeal has been filed. Therefore the said Civil Court decree has become final.

9. In this regard, already there is a direction given by this Court, by order, dated 20.07.2016 in W.P.No.25061 of 2016 directing the registering authorities to register the said Civil Court decree in the Encumbrance Register pertaining to the

property in question.

10. Be that as it may, now the plea of the petitioners is to give patta to the land in question and in this regard, petitioners already given a representation to the Tahsildar on 22.03.2017, therefore the same should have been considered in time, since it has not been considered, the petitioners have approached this Court, this Court feels that, a direction by way of mandamus can be issued to the respondent Tahsildar to look into the said representation of the petitioners, dated 22.03.2017 and accordingly, decide the same on merits and in accordance with law, of course by taking into account the Civil Court decree, dated 03.02.2014 referred to above by giving separate notices to the petitioners as well as the rival claimants, if any, and after giving due opportunity to them final orders can be passed by the Tahsildar.

11. In that view of the matter, there shall be a direction to the respondent Tahsildar to consider and decide the application / representation of the petitioners, dated 22.03.2017 for issuance of patta in respect of the property at No.52/27, 1st Street Extension, Parameswari Nagar, Adyar, Chennai - 600 020, of course pursuant to the Civil Court decree made in O.S.No.5005 of 2013, dated 03.02.2014 on the file of the II Assistant City Civil Court, Chennai and in this regard, while considering the same, opportunity of being heard shall be given to the petitioners as well as the rival claimants, if any, by giving separate notices to them and after affording reasonable opportunity to them, the needful shall be undertaken by the respondent Tahsildar for issuance of patta to the petitioners in respect of the land in question and the final orders to that effect shall be passed, within a period of eight weeks from the date of receipt of a copy of this order.

12. It is made clear that, once patta is given by the respondent Tahsildar, pursuant to this direction, it is open to the petitioners to make further plea for measuring the land for the purpose of identification of the boundary and lay the boundary stone as it would be a subsequent issue, that can very well be claimed by the petitioners, depending upon the outcome of the decision to be made by the respondent Tahsildar on the present issue, i.e., issuance of patta.

13. It is further made clear that the Tahsildar, while deciding the issue for giving patta to the land in question as claimed by the petitioners, shall not insist upon registering the Civil Court decree in the Encumbrance Register to be maintained by the Registration Department.

14. With these observation and direction, this writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

tsvn

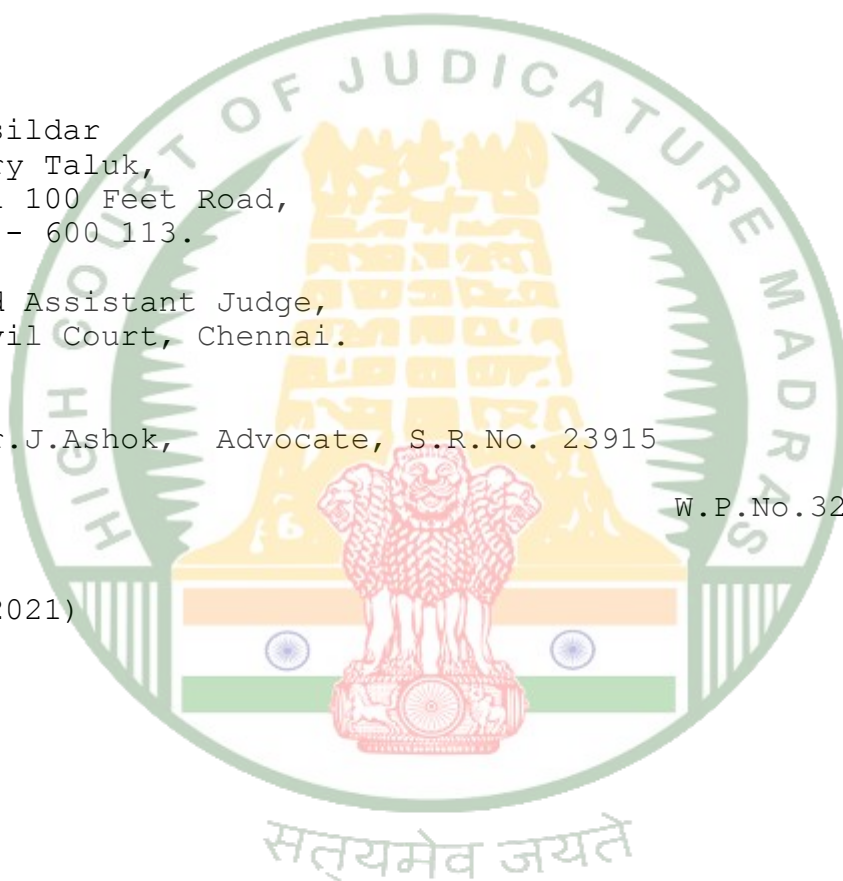
To

- 1.The Tahsildar  
Velachery Taluk,  
Taramani 100 Feet Road,  
Chennai - 600 113.
- 2.The IIInd Assistant Judge,  
City Civil Court, Chennai.

+1cc to Mr.J.Ashok, Advocate, S.R.No. 23915

W.P.No.32231 of 2017

RSV(CO)  
GN(22/06/2021)



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