



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8144 of 2021

Appadurai

... Petitioner

Vs.

The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondent to issue patta to the lands measuring to an extent of 00.387 hectare comprised in Survey No.860/26, 00.390 hectare comprised in Survey No.860/27 and 00.879 hectare comprised in survey No 860/28 situated at Karungadal Village, Sathankulam Taluk, Thoothukudi District by considering the petitioner's representations dated 04.02.2021.

For Petitioner

: Mr.T.Lenin Kumar

For Respondent

: Mr.M.Rajarajan

Government Advocate

ORDER

This writ petition has been filed for the issuance of Writ of Mandamus, directing the respondent to consider the representation made by the petitioner on 04.02.2021, wherein, the petitioner has sought for the issuance of patta in the name of the temple in line with the Judgment passed by this Court in S.A.(MD).No.698 of 2011, dated 06.11.2021.

2.The case of the petitioner is that the subject property belonged to the temple and a small portion of the property was encroached by one Saraswathi. She filed a suit seeking for the relief of permanent injunction and ultimately, the matter reached this Court in S.A.(MD).No.698 of 2011. This Court disposed of the second appeal by Judgment, dated 06.01.2021. The relevant portion in the Judgment is extracted hereunder:

"14.In such view of the matter, this Court is of the view that as the plaintiff has failed to prove her exclusive possession over the entire extent, the first appellate Court decreeing the suit in its entirety merely, on the basis of admission with regard to the small extent, is not according to law. Therefore, the judgment of the first appellate Court, granting injunction in respect of the entire suit property, is set aside. However, taking note of the evidence adduced by the plaintiff and the



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Commissioner's Report and also the admission made by the defendant about possession in respect of a small hut, which, is clearly demarcated and identified by the commissioner in the sketch, the injunction is restricted only in respect of the small hut and area shown in the Commissioner's report and plan. Since the defendant is running the temple, non-impleading the temple not prejudiced the temple."

3.The petitioner made a representation to the respondent seeking for the issuance of patta in the name of the temple for the portion of the property, which is in the possession of the temple and which was recognized by this Court, while passing the Judgment in the Second Appeal. Since the same was not considered, the present writ petition has been filed before this Court, seeking for appropriate directions.

4.Heard Mr.T.Lenin Kumar, learned counsel for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader for the respondent.

5.Taking into consideration the facts and circumstances of this case and the limited relief sought for in this writ petition, there shall be a direction to the respondent to consider the representation made by the petitioner on 04.02.2021, in line with the Judgment passed by this Court in S.A.(MD).No.698 of 2011 and pass orders, within a period of eight weeks from the date of receipt of a copy of this order.

6.The petitioner is directed to make a fresh representation to the respondent along with all the relevant documents and also a copy of this order.

7.This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.



W.P.(MD).No.8144 of 2021

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-17263[F] dated 23/04/2021)

+1 CC to M/s.SPL GP (SR-17377[F] dated 23/04/2021)

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