



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

W.P. (MD) .No.12901 of 2021

K.Saraswathy

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Madurai East Taluk Office,
Madurai.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to issue House Site Patta or Assignment to the petitioner in respect of the Survey No. 93/2 to the extent of 4.75 cents, situated at Quarry Road, Yanamalaiyan Nagar 2nd Ward, Narasingam Village, Y.Othakadai, Madurai District, within the time frame based on petitioner's representation, dated 06.02.2021.

For Petitioner
For Respondents

: Mr.S.Balamurugan
: Mr.M.Lingadurai
Government Advocate

ORDER

This writ petition has been filed for the issuance of writ of Mandamus, directing the respondents to issue House Site Patta or Assignment to the petitioner in respect of the Survey No. 93/2 to the extent of 4.75 cents, situated at Quarry Road, Yanamalaiyan Nagar 2nd Ward, Narasingam Village, Y.Othakadai, Madurai District, within the time frame based on petitioner's representation, dated 06.02.2021.

2.The case of the petitioner is that she is permanently residing in door No.2/106A, which is in S.No.93/2, Yanamalaiyan Nagar, Narasingam Village, Y.Othakadai, Madurai, along with her mentally challenged child. Originally the above said survey number has been classified as Natham House Site by proceedings of Revenue Divisional Officer, Madurai, dated 03.10.2000 and assignments were granted to the eligible persons. The subject property was in possession of one S.Shanmugavel Chettiyar and it was transferred to S.K.Rajan, from whom, the petitioner's vendor Karuppayee Ammal has purchased the same. The petitioner purchased the said property from Karuppayee Ammal and one Dhanalakshmi on 10.05.2006 through an unregistered sale deed. Since then, the petitioner residing in that land by putting up a tiled house to the extent of 2.5 cents and put up a toilet and a petty shop in remaining 2.25 cents of land.



Electricity connection also granted to the petitioner's house in Connection No.051180131143. According to the petitioner, in the year 2016, the petitioner has filed a Civil Suit in O.S.No.196/2016, against her neighbour not to interfere with the possession and enjoyment of the petitioner and the same was decreed on 09.01.2017, which will evidence that the petitioner is in possession in the subject property.

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3.The further case of the petitioner is that the respondents have already subdivided the S.No.93/2 and granted assignments to the persons under occupation namely P.Pandi, Ammasi, Machakalai etc., and the copies of assignments granted to those beneficiaries have been enclosed in the typed set. Therefore, in the same line, the petitioner also applied for issuance of assignment/patta in the S.No.93/2, considering the length of possession and occupation of the petitioner in the subject property, on many occasion and finally a representation was given on 06.02.2021. Having received of the representation from the petitioner, the third respondent sought for No Objection Certificate from the Archeological Department, Madurai. According to the petitioner, S.No.93/2 has been already converted into Natham House site from Government Poramboke and the Archeological Monument of Elephant Hill is far away from the subject property. Therefore, seeking No Objection Certificate from Archeological Department, is not necessary in this case, since it was already converted as Natham House site and assignment has also been issued in favour of other persons.

4.According to the petitioner, the Government has already issued Government Orders from time to time and many persons were given benefit under those Government Orders. In a recent Government Order in G.O.Ms.No.318, Revenue and Disaster Management Department, dated 30.08.2019 a direction was given to the authorities to regularize the unobjectionable poramboke lands and issue patta and in case of encroachments in objectionable areas, alternate site has to be provided to the occupier. According to the petitioner, the subject property is a Natham House site, which is in her occupation. According to the petitioner, in catena of decisions the Court held that the Government has no right over Natham Land and the occupier of the Natham land alone has right. Therefore, the petitioner sent various representations for issuance of patta or assignment in the name of the petitioner, but no order has been passed. Therefore, left with no other option the petitioner has come forward with this present writ petition.

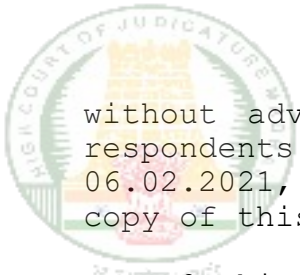
5.Though the petitioner has come out with a larger prayer, the learned counsel for the petitioner on instructions would submit that it would be suffice, if the respondents are directed to consider the representation made by the petitioner within a time fixed by this Court.

6.The learned Government Advocate appearing for the respondents on instructions would submit that the representation made by the petitioner will be considered as early as possible.

7.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

8.Taking into consideration the facts and the circumstances of the case and the submissions made by the learned counsel for the petitioner,

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without advertent to the merits of this case, this Court directs the respondents to consider the representation of the petitioner, dated 06.02.2021, within a period of twelve weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Madurai District,
Madurai.

2. The Revenue Divisional Officer,
Madurai.

3. The Tahsildar,
Madurai East Taluk Office,
Madurai.

+1CC to M/s.S.Balamurugan, Advocate (SR24689)
+1CC to The Special Government Pleader (SR24928)

**W.P. (MD) .No.12901 of 2021
29.07.2021**

ES

RS (10.08.2021) 3P-6C