



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.12872 of 2021

Kaliappan

...Petitioner

Vs.

1.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

2.The Zonal Deputy Tahsildar,
Thirumangalam Taluk,
Madurai District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent vide proceedings in Na.Ka.No.4946/2021/A3, dated 12.04.2021 and quash the same as illegal and consequently direct the first respondent to grant patta in favour of the petitioner and his daughters within a stipulated time that may be fixed by this Court.

For Petitioner

: Mr.B.Bhagawati

For Respondents

: Mr.R.Suresh Kumar

Government Advocate

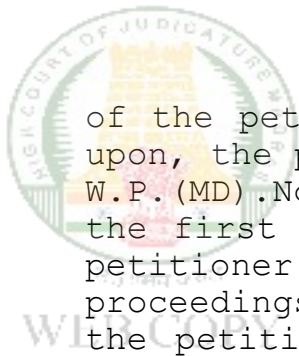
ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. This Writ Petition has been filed challenging the impugned order passed by the first respondent, through proceedings, dated 12.04.2021 and for a consequential direction to the first respondent to grant patta in favour of the petitioner and his daughters.

3. The case of the petitioner is that the subject property was sold in favour of his wife by virtue of a registered sale deed, dated 27.11.1996. The further case of the petitioner is that one P.Shanmugam, who was claiming right over the property, had filed a suit in O.S.No.158 of 1997 and this suit also came to be dismissed, by virtue of Judgment and Decree, dated 19.01.2009. Thereafter, it was also confirmed in appeal by Judgment and Decree, dated 22.01.2020, made in A.S.No.111 of 2017.

4.The wife of the petitioner died on 14.11.2018, leaving behind the petitioner and his three daughters as the legal heirs. The petitioner approached the first respondent and submitted an application on 31.10.2020, seeking for issuance of patta in the name



of the petitioner and his daughters. Since the same was not acted upon, the petitioner also filed a writ petition before this Court in W.P.(MD).No.16652 of 2020 and this Court also issued directions to the first respondent to deal with the application submitted by the petitioner. The first respondent, by virtue of the impugned proceedings, dated 12.04.2021, has rejected the application made by the petitioner on the ground that the enlisted documents were not available. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.B.Bhagawati, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate for the respondents.

6. The learned counsel appearing for the petitioner submitted that the petitioner is in possession of all the relevant documents and in fact, it was submitted before the first respondent and even if the first respondent wanted copy of these documents, the petitioner would have submitted those documents and it was not fair on the part of the first respondent to have rejected the application by merely stating that certain documents are not available. In reply to the submissions, the learned Government Advocate stated that the petitioner can furnish all those documents mentioned in the impugned proceedings of the first respondent dated 12.04.2021 and the same will be considered by the first respondent and a decision will be taken.

7. In the considered view of this Court, if the first respondent wanted the petitioner to furnish certain documents, he should ask the petitioner to furnish those documents and instead should not have proceeded to reject the application itself. In view of the specific stand taken by the learned counsel appearing on either side, the impugned proceedings of the first respondent, dated 12.04.2021, is hereby quashed and the matter is remanded back to the file of the first respondent. The petitioner shall furnish all the relevant documents to the first respondent and the first respondent shall consider the same and pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. This writ petition is allowed with the above directions.
No costs.

Sd/-

Assistant Registrar (W)

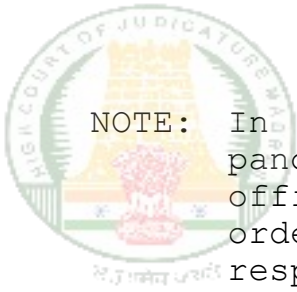
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/ /2021

Sub Assistant Registrar(CS)

TM

<https://hcservices.ecourts.gov.in/hcservices/>



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.

WEB COPY

To

1.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

2.The Zonal Deputy Tahsildar,
Thirumangalam Taluk,
Madurai District.

+1 CC to M/s.SPL GP (SR-24385[F] dated 29/07/2021)

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-24686[F] dated 30/07/2021)

W.P. (MD) .No.12872 of 2021
28.07.2021

SS-II(CO)
KB(12.08.2021) 3P 5C