



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17378 of 2021

A.Nargees Banu

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Madurai West Taluk,
Madurai.
- 3.The Tahsildar,
Madurai West Taluk,
Madurai District.
- 4.The Village Administrative Officer,
Vilachery Village,
Madurai District.
- 5.I.Muhammad Shareef
- 6.M.Shahjahan
- 7.Karuppai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to consider and dispose of the application of the petitioner dated 06.07.2020 seeking correction and issuance of patta in the name of the petitioner, A.Nargees Banu and her daughter Syed Fathima, within the time frame stipulated by this Court.

For Petitioner
For R-1 to R-4

: Mr.G.Mohan Kumar
: Mr.P.Subbaraj,
Counsel for State.



ORDER

The petitioner seeks cancellation of the pattas issued to the sixth and seventh respondents, and instead seeks issuance of pattas to the petitioner and her daughter.

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2. The petitioner traces title to the property bearing S.F.No.227/7A, Vilachery Village, Madurai West Taluk, Madurai of an extent of 0.42.0 Hectares through her late husband, Abdul Razak.

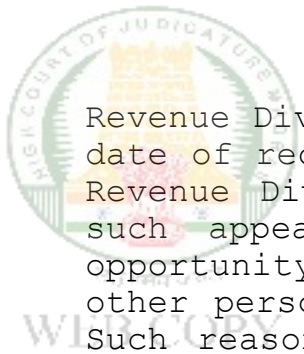
3. The petitioner states that the said property was jointly owned by her late husband and his uncle, Muhammed Hanifa. It is stated that Patta No.2728 was issued in respect of the said property to Abdul Razak and Muhammed Hanifa. Subsequently, the petitioner alleges that the fifth respondent herein, who is not related to her late husband or the other members of the family, executed a sale deed dated 09.09.1998 in favour of the seventh respondent. Later, it is stated that the fifth respondent executed a gift deed dated 31.07.2007 in favour of his son, the sixth respondent herein. Pursuant thereto, it is stated that Patta Nos.3589 and 3436 were issued in the names of Shahjahan and Karuppai, respectively.

4. Immediately upon coming to know of the same, the petitioner states that she submitted an application dated 06.07.2020 to the third respondent. An inquiry was conducted in such regard on 09.09.2020. The present Writ Petition is filed because no action was taken thereafter to conclude the inquiry.

5. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 to 4. He submits that the appropriate authority to consider an appeal against the issuance of patta by the Tahsildar is the jurisdictional Revenue Divisional Officer.

6. The petitioner has enclosed a copy of Patta No.2728, which was issued to Abdul Razak and Muhammed Hanifa in respect of Survey No.227/7A. The Death Certificate of Abdul Razak and the Legal Heir Certificate are also enclosed. The patta issued under Patta No.3589 to Shahjahan and under Patta No.3436 to Karuppai are on record. Patta No.3589 pertains to the property bearing Survey No.227/7A2 of an extent of 0.28.00 Ares and Patta No.3436 pertains to the property bearing Survey No.227/7A1 of an extent of 0.14.00 Ares. It appears that these pattas were issued pursuant to proceedings dated 16.09.2007. Once pattas are issued by the jurisdictional Tahsildar, an appeal against the issuance of such pattas seeking cancellation and re-issuance lies before the jurisdictional Revenue Divisional Officer.

7. Accordingly, subject to the above observations but without entering any findings on the merits of the matter, the petitioner is permitted to file an appeal before the jurisdictional



Revenue Divisional officer within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the Revenue Divisional Officer is directed to consider and dispose of such appeal by a reasoned order after providing a reasonable opportunity to the petitioner, respondents 5 to 7 herein and any other persons who would be affected by the outcome of such appeal. Such reasoned order shall be issued within a period of three (3) months from the date of receipt of the appeal from the petitioner.

8. W.P.(MD).No.17378 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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,
Revenue Divisional Office,
Madurai West Taluk,Madurai.
- 3.The Tahsildar,
Madurai West Taluk,Madurai District.
- 4.The Village Administrative Officer,
Vilachery Village, Madurai District.

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-30563[F] dated 28/09/2021)

+1 CC to M/s.SPL.GP (SR-30581[F] dated 29/09/2021)

W.P (MD) No.17378 of 2021

28.09.2021