

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14725 of 2022
and
W.M.P.No.13923 of 2022

P.Anusuya

...Petitioner

Vs.

1. The Tasildhar
Taluk Office sh-79,
VIP Nagar, Rasipuram,
Nammakkal District - 637 408.
2. The Zonal Deputy Tasildhar,
Taluk Office sh-79,
VIP Nagar, Rasipuram,
Nammakkal District - 637 408.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of 2nd respondent in Applicaion No.2019/0103/09/147096 and quash the order passed on 04.09.2019 and direct the 2nd respondent to issue Patta in the name of the petitioner.

For Petitioner : Mr.Sudharshana Sunder
For Respondents : Mr.G.KrishnaRaja, AGP.

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the order dated 04.09.2019 passed by the 2nd respondent in Application No.2019/0103/09/147096, quash the same and a consequential direction to the 2nd respondent to issue Patta in the name of the petitioner.

2. Learned Additional Government Pleader takes notice on behalf of the respondents. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that, the lands comprised in S.No.49/9, 50/2, 50/6A, 50/8, 50/9, 50/10, 50/11, 50/12, 53/5, 65/1A, 66/1A, 66/4A, 66/5A, 66/6A and 66/7A situated at Mangalapuram Village, originally belonged to the petitioner's grandfather viz., Ramasamy Gownder and the same were allotted to the petitioner's father, vide partition deed dated 27.09.1968 in Document No.2775 of 1968. After the demise of the petitioner's father, the patta in respect of the above said lands was transferred in the name of the legal heirs of the petitioner's father namely, the petitioner, her mother Chellamal, her sister Dhanabakiyam and her brother Manikandan. During the lifetime of the petitioner's father, he had taken loan on the subject property and as he was unable to repay the same, Suits in O.S.No.2122 of 1997 and O.S.No.143 of 1995 came to be filed and the Court attached the subject property and brought the same to auction and thereby, the petitioner settled the entire amount due and payable on the property. Accordingly, the petitioner's mother and brother executed a sale deed dated 27.09.2008 in Doc.No.1977 of 2005 in favour of the petitioner, pursuant to which, the petitioner made an application for issuance of patta in her name and same was rejected on the ground that, release deed has to be obtained. While such being the case, the petitioner's sister filed a suit in O.S.No.124/2015 and the same was decreed in favour of the petitioner on 20.02.2019. Immediately thereafter, the petitioner made an application dated 05.07.2019 before the 2nd respondent for transfer of patta in her favour, however, the same was rejected by the 2nd respondent mechanically without conducting any enquiry, without assigning any specific reason. Hence, challenging the said rejection order, the present Writ petition is filed.

4. Learned counsel for the petitioner submitted that, the petitioner is the one who settled the entire amount due and payable on the property and accordingly, the petitioner's mother and brother executed a sale deed dated 27.09.2008 in Doc.No.1977 of 2005 in favour of the petitioner. Further, the suit filed by the petitioner's sister in O.S.No.124/2015 was also decreed in favour of the petitioner on 20.02.2019. While such being the case, the 2nd respondent, mechanically rejecting the petitioner's application dated 05.07.2019 for issuance of patta without assigning any specific reasons is not sustainable. Hence, he prayed for appropriate orders.

5. Pursuant to the notice issued by this Court, the revenue officials appeared before this Court today and on instructions, the learned Additional Government Pleader appearing on behalf of the respondents submitted that, if a fresh application for transfer of patta is submitted by the petitioner, the same will be considered on merits and appropriate orders will be passed within the time stipulated by this Court.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. Admittedly, the suit in O.S.No.124 of 2015 filed by the petitioner's sister on the file of the Sessions Judge, Fast Track Mahila Court, Namakkal, as against the petitioner was dismissed on 20.02.2019. Whiles, when there is no restraint order, the revenue officials, rejecting the petitioner's application for issuance of patta is not sustainable. Hence, this Court has no hesitation to set aside the impugned order dated 04.09.2019 passed by the 2nd respondent in Application No.2019/0103/09/147096. Further, the petitioner is directed to file a fresh application before the respondents for transfer of patta within a period of four weeks from the date of receipt of a copy of this order. If such application is filed, the respondents are directed to consider the same on merits and pass appropriate orders in accordance with law within a period of four weeks thereafter.

8. This writ petition is accordingly disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

skt

To

1. The Tasildhar
Taluk Office sh-79,
VIP Nagar, Rasipuram,
Namakkal District - 637 408.

2. The Zonal Deputy Tasildhar,
Taluk Office sh-79,
VIP Nagar, Rasipuram,
Namakkal District - 637 408.

+1cc to Mr.Sudharshana Sunder, Advocate, S.R.No.37257

+1cc to the Government Pleader, S.R.No.37691

W.P.No.14725 of 2022
and
W.M.P.No.13923 of 2022

RR[co]
NSK/12/07/2022