



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Eighth day of February Two Thousand Twenty Two

PRESENT

THE HON`BLE MR.JUSTICE M.DHANDAPANI

WMP.NO.17192 OF 2016

IN WP.NO.28493 OF 2010

IYAMPERUMAL,

[PETITIONER]

Vs

1 KRISHNAMOORTHY,

[RESPONDENTS]

2 THE DISTRICT COLLECTOR,
ARIYALUR DISTRICT, AT ARIYALUR.

3 THE REVENUE DIVISIONAL OFFICER,
UDAYARPALAYAM TALUK,
UDAYARPALAYAM, ARIYALUR DISTRICT.

4 THE TAHSILDAR,
UDAYARPALAYAM TALUK, ARIYALUR DISTRICT.

5 THE VILLAGE PRESIDENT,
AT SHOZANKURICHI VILLAGE AND POST,
UDAYARPALAYAM TALUK, ARIYALUR DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Re-open the above Writ Petition, WP.No.28493 of 2010 on the file of this Hon'ble Court which was allowed on 28.02.2014 in the interest of justice(WMP.NO.17192/2016)

Order : This Miscellaneous petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.P.VEENA SURESH, Advocate for the petitioner and of MR.G.NANMARAN, Special Government Pleader on behalf of the Respondents, the court made the following order:-

The case of the petitioner is that the petitioner had already obtained a patta based on the decree in O.S.No.280 of 2000. Challenging the issuance of patta in favour of the petitioner, the Writ Petitioner namely Mr.Krishnamoorthy had filed a Writ Petition before this Court in W.P.No.28493 of 2010, this Court by its order dated 28.02.2014, allowed the Writ Petition and cancelled the patta in favour of the petitioner herein / 5th respondent.



2. The learned counsel appearing for the petitioner herein would submit that the present petition has been filed to reopen and restore the W.P.No.28493 of 2010 dated 28.02.2014 on file. He submits that while entertaining the Writ Petition, this Court directed to take private notice to the petitioner herein, but the learned counsel, instead of taking notice to the petitioner in W.P.No.28493 of 2010 had wrongly mentioned the case number as W.P.No 28439 of 2010, which in turn prevented the 5th respondent from entering appearance and take effective steps to contest the case. Hence the present petition is filed with the above said prayer.

3. This Court has perused the order of this Court and the decree granted by the Civil Court.

4. A perusal of the order passed by this Court reveals that the decree, which had been granted in O.S. No.280/2000, did not entitle the petitioner to any patta and that there was a categorical finding in the said order of the court below that the Government land has to be used as a 'pathway'. However, the revenue authorities, based on the abovesaid decree, which did not grant any benefit to the petitioner in the form of title, had on an erroneous interpretation, granted patta in favour of the petitioner. It is also found mentioned therein that the decree was granted exparte, as the respondents failed to appear before the court below. The abovesaid facts have been carefully analysed and appreciated by this Court while allowing the writ petition.

5. Further, it is evident from the records that the 5th respondent/petitioner herein was served and since there was no representation continuously, his name was printed in the cause list and even thereafter, there being no appearance, the order came to be passed on merits.

6. When this Court had categorically observed that the land for which the petitioner claims patta is a government land/pathway, this Court cannot sit in appeal over the judgment passed in the writ petition. Even otherwise, the proper course open to the petitioner is to file appeal against the said order and it would not be right on the part of this Court to restore the writ petition to file, which has been decided on merits, more so, when the petitioner has been afforded opportunity and he has failed to turn up to defend his case.

7. For the reasons aforesaid, this Court is not inclined to entertain this petition seeking restoration of the writ petition, which order is perfectly in order and, accordingly, finding no merits, this miscellaneous petition is dismissed.

-sd/-
28/02/2022

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.



TO

1 THE DISTRICT COLLECTOR,
ARIYALUR DISTRICT, AT ARIYALUR.

2 THE REVENUE DIVISIONAL OFFICER,
UDAYARPALAYAM TALUK,
UDAYARPALAYAM, ARIYALUR DISTRICT.

3 THE TAHSILDAR,
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Order
in
WMP.NO.17192 OF 2016
IN WP.NO.28493 OF 2010

Date :28/02/2022

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