



W.P.No.36665 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.36665 2015
and M.P.No.1 of 2015

G.Sridhar Raja

... Petitioner

Vs.

1.The District Collector,
Salem District,
Office of the Collector,
Salem.

2.The Tahsildar,
Taluk Office,
Salem.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in Na.Ka.6896/2015/A2 dated Nil.09.2015 quash the same and further direct him to issue Joint patta in respect of Door No.47 & 48 (Old Door No.17R & 17S), to an extent of 1800 Square feet in Ward-E, Block-9, T.S.No.10/1 in Pallipatti Village, Salem District in favour of the Rajammal, G.Selvaraj, G.Vasudevan, G.Ramaraj, G.Damodaran, B.Ramani, Yadukulakumari, G.Sridhar Raja, R.Nalina R.Subbukutty as per the representation of the petitioner dated 17.09.2014.

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For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.U.Bharanidharn,
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in Na.Ka.6896/2015/A2 dated Nil.09.2015 quash the same and further direct him to issue Joint patta in respect of Door No.47 & 48 (Old Door No.17R & 17S), to an extent of 1800 Square feet in Ward-E, Block-9, T.S.No.10/1 in Pallipatti Village, Salem District in favour of the Rajammal, G.Selvaraj, G.Vasudevan, G.Ramaraj, G.Damodaran, B.Ramani, Yadukulakumari, G.Sridhar Raja, R.Nalina R.Subbukutty as per the representation of the petitioner dated 17.09.2014.

2. The case of the petitioner is that the petitioner father viz., S.Gopal purchased a property in Ward-E, Block 9, T.S.No.10/1, Door.No.47 & 48



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(Old Door No.17R & 17S) in Pallipatti Village, Salem District to an extent of 1800 sq.ft. for a valid sale consideration from one Loganatha Chettiyar and the same was registered on 10.09.1934. From the date of purchase, the petitioner's father is in possession and enjoyment of the property. Whiles, the first respondent tried to evict the petitioner's father from the possession for constructing houses for Slum Clearance Board. Aggrieved by the same, petitioner's father filed a suit in O.S.No.3165 of 1975 on the file of District Munsif Court, Salem for declaring permanent injunction and adverse possession over the property against the first respondent and the said suit was decreed in favour of petitioner's father on 12.09.1983. Challenging the same, the first respondent and other filed an appeal suit in A.S.No.73 of 1986 before the Additional Sub-Judge, Salem and the same was dismissed on 18.09.1996. Thereafter, the petitioner's father died on 15.09.1983 leaving behind his legal heirs.

2.1. It is further submitted that in order to succeed his estate and based on the above said judgment and decree passed by the Lower Court as well as Lower Appellate Court, the petitioner's father, during his lifetime made a representation before the second respondent on 24.09.2000 and 21.12.2000



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for issuance of patta to an extent of 1800 sq.ft, however, the same was not considered. Hence, the petitioner's father filed a writ petition before this Court in W.P.No.1018 of 2001. This Court vide its order dated 19.01.2001 directed the respondents therein to consider and dispose of the same within a period of two months, against which the respondents filed a writ appeal before this Court and the same was dismissed on 04.06.2012.

2.2. Therefore, the petitioner has filed a writ petition in W.P.No.4651 of 2015 before this Court and this Court by its order dated 24.02.2015 directed the respondents therein to consider the petitioner's representation dated 17.09.2014 after giving notice to the parties concerned. Pursuant to the order of this Court, the second respondent has passed the impugned order on Nil.09.2014 by rejecting the claim of the petitioner. Aggrieved over the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. Learned counsel for the petitioner would submit that already the petitioner's father acquired a Civil Court Decree dated 12.09.1983 and the same was confirmed by the Lower Appellate Court as well as this Court. Hence, this Court may set aside the impugned order dated Nil.09.2015 and



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remand the matter back to the second respondent for fresh consideration.

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4. On the above said contention, heard the learned Additional Government Pleader appearing for the respondents and perused the materials placed on record.

5. Admittedly, the suit filed by the petitioner's father was decreed in his favour and the subsequent appeal filed by the respondents was also dismissed, confirming the above said decree dated 12.09.1983. While so, as pointed out by the learned counsel for the petitioner at the time of arguments, without considering the above said decree and judgment made in favour of the petitioner's father, rejecting the petitioner's request for issuance of patta in respect of the subject property is not sustainable. Hence, this Court has no hesitation to interfere with the order impugned in this writ petition. Accordingly, the impugned order dated Nil.09.2015 is set aside and the matter is remanded to the second respondent for fresh consideration and further the second respondent is directed to consider the petitioner's representation dated 17.09.2017 in terms of suit in O.S.No.3165 of 1975 and pass appropriate orders on merits and in accordance with law, after affording

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an opportunity of personal hearing to the petitioner and aggrieved persons, if any, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.09.2022

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Index : Yes/No

Speaking Order : Yes/No

To:

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M.DHANDAPANI,J.

Vm

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