



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.10845 of 2022 and
W.M.P.No.10467 of 2022

K.Thilagavathi

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District.

2.The Revenue Divisional Officer,
Sriperumbudur Revenue Division,
Kancheepuram District.

3.The Tahsildar,
Kundrathur Taluk,
Kancheepuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the third respondent in Application No.2021/0105/03/310357, dated 29.06.2021 and quash the same as arbitrary, illegal and void and consequently direct the third respondent to issue patta to the petitioner within the time fixed by this Court.

For Petitioner : Mr.S.Michael

For Respondents : Mr.P.Sathish

Additional Government Pleader

O R D E R

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in Application No.2021/0105/03/310357, dated 29.06.2021 and quash the same as arbitrary, illegal and void and consequently direct the third respondent to issue patta to the petitioner within the time may be fixed by this Court.

2. The case of the petitioner is that the petitioner's



husband had executed a settlement deed, dated 04.05.2018, which was registered as Doc.No.4579/2018, on the file of the Sub-Registrar Office, Gooduvanchery, of an extent of land measuring 2170 Sq.ft in favour of the petitioner. While so, the petitioner made representation dated 22.02.2021 before the third respondent, seeking sub-division and patta transfer in respect of the aforesaid property. However, the third respondent, without following the rules and procedures and without any intimation, passed the impugned order dated 29.06.2021, stating the reason "FIELD NOT IN OWNER ENJOYMENT" and rejected the Patta application of the petitioner. Challenging the same, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner made application/representation dated 22.02.2021 for sub-division and issuance of Patta before the third respondent. After conducting adjudication, the petitioner's application was rejected on 12.04.2022. Further, he submitted that the procedures contemplated under the Tamil Nadu Patta Passbook Act was not followed. Hence, the impugned order passed by the third respondent is not sustainable. Hence, the petitioner prayed for allowing this Writ Petition.

4. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. The fact remains that, as against the order passed by the third respondent under the Tamil Nadu Patta Passbook Act (hereinafter referred to as "the Act"), there is an effective remedy of appeal available under Section 12 of the Act before the second respondent/Revenue Divisional Officer. Instead of approaching the second respondent, filing the present Writ Petition is not sustainable one. The disputed question of fact cannot be decided under Article 226 of the Constitution of India and the relief sought for in this Writ Petition cannot be granted. However, liberty is granted to the petitioner to approach the second respondent to work out her remedy.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



jd/rap

To

- 1.The District Collector,
Kancheepuram District.
- 2.The Revenue Divisional Officer,
Sriperumbudur Revenue Division,
Kancheepuram District.
- 3.The Tahsildar,
Kundrathur Taluk,
Kancheepuram District.

Copy To

The Section Officer,
ER Section, High Court,
Madras 104.

(To return the original impugned order to the petitioner)

+1cc to the Government Pleader SR.No.30839

W.P.No.10845 of 2022
and
W.M.P.No.10467 of 2022

GSM(CO)
GN(06/06/2022)