



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.10569 of 2022

S.Jebamangalam

... Petitioner

Vs.

1. The Tahsildar,
Mettupalayam,
Coimbatore District.

2. Chandra Ruban

3. Ruban Sukumar

4. R.Ruby Mary

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 30.03.2022 passed in O.Mu.No.3909/2021/S1 passed by the first respondent and quash the same and consequently direct the first respondent to make sub-division of the property measuring an extent of 14 cents comprised in Survey No.770, presently survey No.770/2, situated at Karamadai Village, Mettupalayam Taluk, Coimbatore District and to issue separate patta in the name of the petitioner, within the time to be stipulated by this Hon'ble Court.

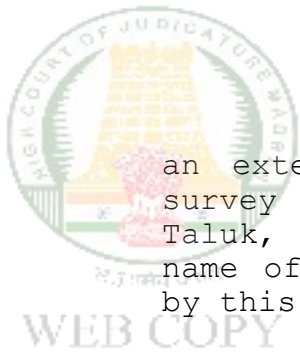
For Petitioner : Mr.V.Ayyapparaja

For R1 : Mr.M.Murali

Government Advocate

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order, dated 30.03.2022 passed in O.Mu.No.3909/2021/S1, by the first respondent and quash the same and consequently direct the first respondent to make sub-division of the property measuring



an extent of 14 cents comprised in Survey No.770, presently survey No.770/2, situated at Karamadai Village, Mettupalayam Taluk, Coimbatore District and to issue separate patta in the name of the petitioner, within the time that may be stipulated by this Court.

2. Mr.M.Murali, learned Government Advocate takes notice for the first respondent. In view of the limited relief sought for in this petition, on the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal. Since, no adverse order is passed against the respondents 2 to 4, notice to the respondents 2 to 4 is dispensed with.

3. The case of the petitioner is that the petitioner is the owner of the property comprised in Survey No.770, presently survey No.770/2, measuring an extent of 14 cents, situated at Karamadai Village, Mettupalayam Taluk, Coimbatore District. The said property was acquired by the petitioner by way of a Settlement deed which was executed by her husband on 10.01.2019, vide Document No.253 of 2019. Thereafter, the petitioner made an application dated 26.10.2021 before the first respondent for issuance of separate patta in the name of the petitioner. However, the said representation was rejected by the first respondent by the impugned order dated 30.03.2022 on the ground that the petitioner is not in possession of the property and the observations made therein by the first respondent, are perverse and not sustainable. Challenging the said order dated 30.03.2022, the present writ petition is filed.

4. The learned counsel for the petitioner submitted that the petitioner obtained the subject property by a Settlement Deed, which was executed by her husband on 10.01.2019, vide Document No.253 of 2019. Earlier, the joint patta was issued in the name of the petitioner and her husband. After the UDR Settlement, the petitioner made an application for issuance of separate patta. However, the first respondent passed an adverse order stating that the petitioner is not in possession of the property. The fact remains that the petitioner is paying the property tax from the date of settlement till date.

5. The learned Government Advocate appearing for the first respondent submitted that, as against the impugned order passed by the first respondent, there is an effective alternative remedy to file an appeal before the Revenue Divisional Officer under Section 12 of the Tamil Nadu Patta Pass Book Act. Without filing such an appeal, filing writ petition under Article 226 of Constitution of India, is not sustainable. Accordingly, he prayed for dismissal of this writ petition.



6. Considering the facts and circumstances of the case, in view of the above submission made by the learned Government Advocate, this Court, without going into the merits of the case, directs the Registry to return the original impugned order to the petitioner enabling her to file an appropriate appeal before the Revenue Divisional Officer, within a period of two weeks from the date of receipt of a copy of this order and permits the petitioner to file an appeal before the concerned Revenue Divisional Officer. If such an appeal is filed before the Revenue Divisional Officer, the concerned Revenue Divisional Officer is directed to pass appropriate orders, after giving an opportunity of hearing to the petitioner and the respondents 2 to 4 herein, on merits and in accordance with law, within a period of twelve weeks thereafter.

7. With the above directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

MN

To

The Tahsildar,
Mettupalayam,
Coimbatore District.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.28580
+1cc to the Government Pleader, S.R.No.29670

W.P. No.10569 of 2022

AK-II(CO)
TE (05/05/2022)