

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P. No.8960 of 2016
and W.M.P.No.7965 of 2016**

T.Subramani

... Petitioner

Vs.

1. The District Revenue Officer,
Revenue Department,
Vellore District.

2. Manickammal

3. Mayavathi

4. Rajasekar

5. Palani

6. Shanmugam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in his order Pa.Mu.(P1)1380/2015 dated 11.12.2015 quash the same and consequently direct the first respondent to issue patta in favour of petitioner as per representation dated 24.02.2015 of the petitioner.

For Petitioner	: Mr.P.Krishnan
For R1	: Mr.V.Veluchamy Additional Government Pleader
For R2 to R6	: No Appearance

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his order Pa.Mu.(P1)1380/2015 dated 11.12.2015 quash the same and consequently direct the first respondent to issue patta in favour of petitioner as per representation dated 24.02.2015 of the petitioner.

2. The case of the petitioner is that the property comprised in Survey No.279/1 ad-measuring 3.02 acres, situated at Kavanoor Village, Katpadi Taluk, Vellore District originally belong to one Muthammal. The petitioner's mother purchased to an extent of 1.15 acres from the said Muthammal in the year 1963. Whereas the remaining extent of 1.87 acres was purchased by one Kuppusamy Naicker from the said Muthammal in the year 1966. A Civil Suit in O.S.No.911 of 1977 was filed by the petitioner's mother for the relief of declaration and for mandatory injunction for the removal of superstructure on the property. The said Kuppusamy Naicker also filed a suit in O.S.No.868 of

1978 against the petitioner's mother claiming that he is entitled to the entire extent of 3.02 acres in S.No.279/1. Thereafter, the Trail Court decreed the suit in favour of the petitioner's mother declaring that she is entitled to 1.15 acres and the said Kuppusamy Naicker is entitled to 1.87 acres. Now, inadvertently, the patta was transferred in the name of the second respondent. Therefore, the petitioner made a representation for transfer of patta. The said representation has been referred by the first respondent on the ground that the suit filed by the second respondent in O.S.No.418 of 2015 is pending on the file of the Sub Court, Vellore. Challenging the same, the present petition is filed.

3. The learned counsel for the petitioner would submit that the suit filed by the respondents 2 to 6 in O.S.No.418 of 2015 was dismissed for default on 10.12.2019. Thereafter the second respondent filed an interim application in I.A.No.01 of 2021 in O.S.No.418 of 2015 to condone the delay of 605 days in filing the petition, which is pending. However, the suit in O.S.No.418 of 2015 was already dismissed for default on 10.12.2019. Therefore, there is no impediment for the jurisdictional Tahsildar to consider the petitioner's representation for transfer of patta. Therefore, the learned counsel for the petitioner request this Court to remand the matter to the first respondent for

fresh consideration of transfer of patta within a reasonable time as may be fixed by this Court.

4. The learned Additional Government Pleader would submit that the suit in O.S.No.418 of 2015 was dismissed for default in the year 2019 and till now, the same was not restored and therefore submits that the matter may be remanded to the first respondent for fresh consideration.

5. Considering the facts and circumstances of the case, the suit in O.S.No.418 of 2015 was already dismissed for default in the year 2019, so there is no impediment to consider the representation of the petitioner. Accordingly, the impugned order in Pa.Mu.(P1)1380/2015 dated 11.12.2015 passed by the first respondent is hereby quashed and the matter is remanded to the first respondent for fresh consideration. The petitioner is permitted to canvas all the points before the first respondent at the time of enquiry and the first respondent is directed to decide the issue between the petitioner and the respondents 2 to 6, after affording an opportunity of hearing to them and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.

6. With the above directions, this writ petition stands disposed of.
Consequently, connected Miscellaneous petition is closed. No costs.

06.04.2022

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Index : Yes/No

Internet : Yes/No

W.P.No.8960 of 2016

M.DHANDAPANI,J

mn

To

1. The District Revenue Officer,
Revenue Department,
Vellore District.

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