



WEB COPY



WP.No.30942 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.30942 of 2017
and W.M.P.No.33854 of 2017

Chellathal

.. Petitioner

Versus

1.The State of Tamil Nadu
Rep by the District Collector
Tiruppur
Tiruppur District

2.The Thasildar
Tharapuram
Tiruppur District

3.Palanisamy

4.Palanisamy

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent herein to conduct necessary enquiry into petitioner representation dated 27.06.2017 and cancel the patta No.33 and 121 issued to the 3rd respondent and issue separate patta in the name of the petitioner for 6.29 1/2 acres (being my half share) out of the said agricultural dry lands having patta No.33 and 121 comprised in Survey Numbers being Ka.Sa.No.388, 394/1, 395, 396, 397, 398/13, 400/2, 401/B1401/C, 404/F2, 405/B3 situate in Nathampalayam Village Tharapuram Taluk, Tirupur District.

For Petitioner : Mr.S.Arunkumar
For Respondents : Mr.U.Bharanidharan for R1 & R2
Additional Government Pleader
Mr.M.Guruprasad for R3
No appearance for R4



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ORDER

This writ petition is filed seeking for the issuance of Writ of Mandamus to direct the 2nd respondent herein to conduct necessary enquiry into petitioner representation dated 27.06.2017 and cancel the patta No.33 and 121 issued to the 3rd respondent and issue separate patta in the name of the petitioner for 6.29 1/2 acres (being my half share) out of the said agricultural dry lands having patta No.33 and 121 comprised in Survey Numbers being Ka.Sa.No.388, 394/1, 395, 396, 397, 398/13, 400/2, 401/B1401/C, 404/F2, 405/B3 situate in Nathampalayam Village, Tharapuram Taluk, Tirupur District.

2. The case of the petitioner is that the petitioner claims to be the owner of the agricultural dry lands from the patta Nos. 33 and 121 to an extent of 6.29 1/2 acres, comprised in various survey numbers situated at Nathampalayam Village, Tharapuram Taluk, Tirupur District. However it is her grievance that pursuant to the death of her father, the third respondent, who is her brother had mutated the revenue records into his favour by fabricating documents. Aggrieved by the alleged fraudulent transaction, the petitioner made a representation on 27.06.2017 to the respondents seeking for cancellation of the patta issued in favour of the third respondent and further for issuing separate patta in her favour i.e., 6.29 1/2 acres which is pending without consideration till date. Hence, this petition.



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2. Learned counsel for the petitioner submits that during the pendency of this writ petition, the writ petitioner had passed away. Hence, seeks this Court a liberty to the legal heirs of the petitioner to pursue the remedy before the second respondent by making appropriate application in the manner known to law.

3. Learned counsel for the third respondent submitted that the fourth respondent for the very same property had filed a suit in O.S.No.373/2016 before the Sub-Court, Tharapuram, Thiruppur District seeking half share on the disputed property and the same is pending.

4. Learned Additional Government Pleader submitted that during the pendency of the civil suit, the Tahsildar has no power to decide the issuance of patta. Hence, seeks for dismissal of this writ petition.

5. Heard both sides and and perused the materials available on record. Admittedly, the facts of the present case are not in dispute. The petitioner had made a representation to the respondents seeking cancellation of the patta which is allegedly mutated in favour of the third respondent. However, during the pendency of this writ petition, the petitioner has passed way. Hence, this Court



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is of the view that it is open to the legal heirs of the petitioner to file a fresh application seeking cancellation of the subject patta or implead themselves in the above suit by filing appropriate application in the manner known to law.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2022

dhk

Index: Yes/No

Internet: Yes/No

To

1. The District Collector
Tiruppur
Tiruppur District

2. The Thasildar
Tharapuram
Tiruppur District

M. DHANDAPANI, J.

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