



W.P.No.29346 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29346 of 2022

A.Velusamy

... Petitioner

Vs

The Zonal Deputy Tahsildar,
Nohanur Taluk,
Namakkal District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in relation to the impugned order dated 12.10.2022 passed by the respondent in File No.2022/0103/09/289617 pertaining to the petitioner's land situate in Agrahara Manappalli Village, Mohanur Taluk, Namakkal District, comprised in S.No.495/1B measuring an extent of 0.65.00 Hectare and to quash the same with consequential direction directing the respondent to issue Patta in the name of the petitioner pertaining to his above land.

For Petitioner : Mr.S.Senthil

For Respondent : Mr.U.Bharanidharan
Additional Government Pleader



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ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records in relation to the impugned order dated 12.10.2022 passed by the respondent in File No.2022/0103/09/289617 pertaining to the petitioner's land situate in Agrahara Manappalli Village, Mohanur Taluk, Namakkal District, comprised in S.No.495/1B measuring an extent of 0.65.00 Hectare and to quash the same with consequential direction directing the respondent to issue Patta in the name of the petitioner pertaining to his above land.

2.The case of the petitioner is that the disputed property is owned by the petitioner's father Ammaiyappa Gounder in respect of property in S.No.495/1B measuring an extent of 0.65.00 Hectare and the petitioner's father obtained the said property through a Court Decree made in O.S.No.130 of 2000 dated 28.03.2002 and the Court executed a sale Document in Doc.No.1682 of 2007 dated 19.11.2007 on the file of the SRO, Mohanur for the REP.No.521/2022 filed by him. Thereafter, the petitioner's father executed a Will in favour of the petitioner on 17.03.2021. Based on

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the said Will, the petitioner made an application through online Ref.No.2022/0103/09/289617, dated 04.07.2022 for issuance of patta in favour of the petitioner. However, the said application was rejected without assigning any reasons. Hence, the present Writ Petition is filed.

3.Learned counsel appearing for the petitioner would submit that the reason for passing the impugned order, rejecting the said application is “Patta transfer request field is not in enjoyment of the applicant”. However, in the present case, the possession was taken by the petitioner’s father through a Court Decree and the Sale Deed and the Court Decree is in favour of the petitioner’s father and the Will executed in favour of the petitioner establishes that the petitioner is the only legal heir of the said Ammaiyappa Gounder. Therefore, the petitioner is entitled to take the possession of the said property. Without conducting any summary proceedings contemplated under Section 3(7) of the Tamil Nadu Patta and Passbook Act, 1983 the respondent has mechanically passed the present impugned order which is not sustainable and accordingly, he prayed for allowing the Writ Petition.

4.Per contra, learned Additional Government Pleader appearing for



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the respondent would submit that the though the petitioner claims that the petitioner's father obtained the said property through a Court Decree and a Sale Deed was executed pursuant to the Court Decree. However, the said two documents were not presented before the Tahsildar for mutation of the Revenue Records, except the unregistered Will in favour of the petitioner.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available before this Court.

6.The petitioner claims that the petitioner is the legal heir of the said Ammaiyappa Gounder and the petitioner further claims that the his father obtained the property through a Court Decree and the sale deed was executed pursuant to the Court Decree. However, the learned Additional Government Pleader for the respondent submitted that the petitioner's online application Ref.No.2022/0103/09/289617, dated 04.07.2022 for mutation of Patta was rejected on the ground that petitioner did not produce the said Sale Deed as well as the Court Decree. The respondent has no power to decide the possession and the possession can be decided only by the competent Civil Court. The respondent has to consider only the prima



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facie evidence to show that the petitioner is the owner of the property for entitlement of Patta. However, in the present case, the rejection order is passed by the respondent as if the petitioner is not in possession of the said property, is not correct and further the procedure contemplated under Section 3(7) of the Tamil Nadu Patta and Passbook Act, 1983 has not been followed.

7.In view of the above, the order impugned dated 12.10.2022 passed by the respondent in File No.2022/0103/09/289617 is liable to be set aside and the matter is remanded back to the respondent. The petitioner is also directed to produce the Sale Deed and the Court Decree along with Will within a period of four weeks from the date of receipt of a copy of this order. The respondent shall consider the same after providing an opportunity of hearing to the petitioner as well the interested persons and pass appropriate order on merits and in accordance with the law. the said exercise shall be completed within a period of twelve weeks, thereafter.

8.Accordingly, this Writ Petition is allowed. No costs.



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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

M.DHANDAPANI,J.

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To

The Zonal Deputy Tahsildar,
Nohanur Taluk,
Namakkal District.

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