



W.P.No.32308 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.32308 of 2022

and

WMP.No.31705 of 2022

M.Subbaraman

...Petitioner

Vs.

1. The District Collector,
Nagapattinam District,
Vallipalayam, Annai Nagar,
Nagapattinam – 611 001.
2. The Tahsildar,
Taluk Office,
Vedaranyam – 614 810.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned order dated __.09.2022 signed on 12.10.2022 made in Oo.Mu.7399/2022/Aa3 on the file of the 2nd respondent quash the same and direct the 2nd respondent to issue the patta in favour of the petitioner.

For Petitioner : Mr.G.Punniakoti



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For Respondents : Mr.U.Baranidharan, AGP

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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 of the 2nd respondent in respect of the order dated Nil.09.2022 signed on 12.10.2022 made in Oo.Mu.7399/2022/Aa3, quash the same and to consequently, direct the 2nd respondent to issue the patta in favour of the petitioner.

2. Mr.U.Baranidharan, learned Additional Government Pleader takes notice for the respondents. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner and his family members are in continuous possession and enjoyment of the property comprised in Old Survey No.146/8 part, New Survey No.394/8, to an extent of 1770 Sq. mts., situated at Kodikkarai Village, for the past several years. In view of the long standing possession, the petitioner made a representation dated 18.08.2022 before the 2nd respondent seeking for issuance of patta in



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his favour, however, the 2nd respondent, vide proceedings bearing Oo.Mu.7399/2022/Aa3 dated Nil.09.2022 signed on 12.10.2022 rejected the petitioner's request, as if the petitioner sought for free house site patta in his favour in respect of the subject property and on further ground that, at the time of implementation of Natham UDR scheme, the petitioner was not in occupation of the subject land and there are no super structures in the subject land and the same was not put to use by the petitioner. Challenging the said rejection order of the 2nd respondent, the petitioner has come up with this Writ petition.

4. Learned counsel for the petitioner submitted that, the subject property is the ancestral property and the petitioner's family is in possession of the same for the past several years and after the demise of his father, the petitioner being the only son made a representation dated 18.08.2022 before the 2nd respondent in terms of the Section 21 of the Revenue Standing Order (in short 'RSO'), seeking issuance of patta in his favour, however, the 2nd respondent has rejected the same as if the petitioner sought for free house site patta. However, it is to be pointed out that, the petitioner has not sought for free house site patta and he made application for issuance of patta in his



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favour in respect of the subject property based on their continuous possession and even a bare perusal of the order impugned in this Writ petition makes it clear that the 2nd respondent has mechanically passed the rejection as if the petitioner sought for free house site patta and that too without affording an opportunity of personal hearing to the petitioner and without conducting proper enquiry, which is not sustainable. Hence, he prayed for appropriate orders.

5. Learned Additional Government Pleader appearing for the respondents fairly submitted that the petitioner made a representation before the 2nd respondent seeking for issuance of patta in his favour based on his long standing possession over the subject property and he did not apply for issuance of free house site patta. However, he further submitted that, the filed inspection revealed that the petitioner is not in occupation of the subject property and from the report of the Revenue Inspector dated 24.09.2022 it is further evident that, the petitioner is not paying House tax for the said property and on further enquiry, it was made clear that the petitioner is not in possession of any document to confer title over the subject property. Hence, he prayed for dismissal of this Writ petition.



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WEB COPY 6. Heard learned counsel on either side and perused the materials available on record.

7. Admittedly, the subject property is classified as Natham, and the classification itself makes it clear that it does not vests with the Government and it is a dwelling unit and the person in enjoyment of the said land is entitled for patta in terms of Section 21 of the Revenue Standing Order. Further, a perusal of the impugned order of the 2nd respondent reveal that the petitioner's representation seeking issuance of patta in his favour based on his possession was rejected as if the petitioner sought for free house site patta and on the further ground that, the petitioner was not in occupation of the subject land at the time of implementation of Natham UDR Scheme, and the petitioner has not put up any super structure in the subject property and the same is filled with firewood trees alone.

8. However, the fact remains that the petitioner has not made representation for free house site patta and he has only sought for issuance of patta in his favour in terms of Section 21 of the RSO based on his continuous possession. Hence, this Court has no hesitation to interfere with



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the order impugned in this Writ petition and accordingly, the impugned rejection order passed by the 2nd respondent is set aside and the matter is remanded to the 2nd respondent for fresh consideration and the 2nd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and aggrieved persons, if any.

9. For the reasons aforesaid, this Writ petition is allowed. No costs. Consequently, connected Miscellaneous petition is closed.

01.12.2022

skt

Speaking Order : Yes/ No
Index : Yes/ No

To

1. The District Collector,
Nagapattinam District,
Vallipalayam, Annai Nagar,

6/8



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2. The Tahsildar,
Taluk Office,
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M.DHANDAPANI, J.

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