



W.P.No.34635 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.34635 of 2022

Antony Josephine

.... Petitioner

-Vs-

1.The District Collector
Chengelpet District
Chengelpet.

2.The Revenue Divisional Officer
Chengelpet District
Chengelpet.

3.The Tahsildar
Thiruporur Taluk
Thiruporur.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to issue patta in the name of the petitioner in respect of the land comprised in Survey No.1 admeasuring an extent of 7 acres in Thandalam Village, Thiruporur Taluk (Previously Chengelpet Taluk) Chengelpet District.

For Petitioner : Mr.M.Sriram

For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

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The prayer sought for herein is for a Writ of Mandamus directing the respondents herein to issue patta in the name of the petitioner in respect of the land comprised in Survey No.1 admeasuring an extent of 7 acres in Thandalam Village, Thiruporur Taluk (Previously Chengelpet Taluk) Chengelpet District.

2. It is the case of the petitioner that the land in question situated at Thandalam Village, Thiruporur Taluk, Chengalpet District was originally assigned to one Kanniyappan in the year 1963. With reference to the Government Orders relating to assignment of land No Objection Certificate was necessary from the Head of the Department if the lands are to be assigned in favour of the Government Servants. The said Kanniyappan being a Police Constable in Crime Branch C.I.D., the Inspector General of Police in 1960 has granted NoC based on which the said Kanniyappan had acquired the land in the year 1963. Thereafter, the said Kanniyappan appointed one D.Peter Francis, advocate who is none other than the father of the petitioner as his Power of Attorney to do all acts on his behalf.

3. The petitioner purchased 6 cents in the said property under a valid sale deed dated 05.08.1997 registered as Document No.1566/1997 on the file of the



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Sub Registrar, Thiruporur. Insofar as the remaining land is concerned, the petitioner has purchased it from Kanniyappan and others by means of a valid sale deed in the year 2014.

3. Therefore, from the said purchase, having become the absolute owner of the property, the petitioner has been in continuous possession and enjoyment of the property. In this regard, when the petitioner's father on behalf of the said Kanniyappan, put up a compound wall, that was prevented or the compound wall already put up by the petitioner's predecessor in title was sought to be demolished by the revenue authorities. Therefore, it has become necessitated for the said Kanniyappan represented by his Power of Attorney holder to approach this Court by filing a writ petition in W.P.No.13712 of 1997, where an interim order of status quo with regard to the possession of the property was ordered. Subsequently, as per the advice given to file a suit, a civil suit for declaration was filed before the concerned civil court, where, though the plaintiff has become unsuccessful, he filed an Appeal Suit in A.S.No.54 of 2008 before the Principal District Judge, Chengalpattu. The said suit was decreed by the Principal District Judge, Chengalpattu on 15.12.2010. The judgment and degree to that effect also has been annexed in the typed set of documents.



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4. As against the said judgment and decree passed by the first appellate Court as referred to above, no further appeal has been filed by any parties and therefore it has become final.

5. Thereafter, the petitioner had made several attempts during the life time of her father and subsequently by herself to the revenue authorities viz., the 3rd respondent Tahsildar particularly for issuance of patta to the land in question. However, none of the efforts taken by the petitioner has yielded any desired result. Therefore, after being driven from pillar to post and longing for a long time ie., for more than a decade, the petitioner has now filed the present writ petition with the aforesaid prayer.

6. Heard Mr.M.Sriram learned counsel for the petitioner, who after having reiterated the aforesaid would also bring to the notice of this Court about the provision viz., Revenue Standing Orders in Order No.31 under the heading 'Rules for Transfer of Registering of Holding' where Clause 4 has been relied upon by the learned counsel which reads thus,,

"4. Compulsory transfers of title.— (I) Transfers to decree-holders.- In cases of transfers of title of holdings in the name of decree-holders with reference to a decree of a civil court or of purchasers in auction sales held in execution of civil



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court decrees, change of registry may be ordered at once on the application of any of the parties to the suit or of the auction-purchasers and on the production of an authenticated copy of the decree or a certificate of sale, as the case may be, and a certificate of delivery of possession in pursuance thereof provided the transfer is from the registered holder. When the transfer is from a person who is not the registered holder, notice should be given to the registered holder in the manner provided in paragraph 3(a) change of registry is ordered. In cases, however in which a certificate of delivery of possession cannot be produced, as for instance, where on decree past possession is ceded without execution proceedings and the decree is apparently final, the case should be dealt with as provided in para 3 (i) in regard to applications for change of registry presented only by one of the parties to the transfer.”

7. Relying upon this provision, the learned counsel would submit that, in cases of transfer of title holdings in the name of decree holders with reference to a decree of a civil court or of purchasers in auction sales held in execution of civil court decrees, change of registry may be ordered at once on the application of any of the parties to the suit or of the auction-purchasers and on the production of an authenticated copy of the decree or a certificate of sale, as the case may be, and a certificate of delivery of possession in pursuance thereof provided the transfer is from the registered holder.



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8. When that being so, the learned counsel for the petitioner would submit that the civil court, though decreed in favour of the petitioner's Predecessor in title as early as in the year 2010, for all these years the Revenue Department has not come forward to accede to the request of the petitioner for issuance of patta.

9. In this context, the learned counsel has relied upon two decisions of the learned Judges of this Court. First one is dated **18.09.2018 in W.P.(MD) No.18237 of 2018** in the matter of **Devahi Amma -Vs- The District Colector and others** and second one is dated **23.09.2021 in W.P.No.58335 of 2013** in the matter of **C.A.Dhanalakshmi Ammal -vs- The District Revenue Officer, Erode District.**

10. Relying upon these decisions, the learned counsel would contend that once the civil court ultimately passed a judgment and decree declaring the ownership of the property, that is the conclusive one against which if there is no other appeal, there could be no further impediment on the part of the revenue department especially the officer like the 3rd respondent to issue patta in the name of the petitioner / decree holder in respect of the property. Therefore, having waited for all these years and taken all efforts in this regard, which has not given any results in favour of the petitioner, the petitioner having no other option has filed the present writ petition seeking the indulgence of this Court.



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11. Heard Mr.P.Sathish learned Additional Government Pleader who would submit that, if at all the petitioner is fortified of the civil court decree with the Revenue Standing Orders as well the law in this regard which is well settled, the said request of the petitioner for issuance of patta would be considered by the 3rd respondent and accordingly necessary orders would be passed for issuance of the patta within a time frame that may be stipulated by this Court.

12. I have heard the submissions made by the learned counsel for both sides and have perused the materials placed on record.

13. As has been rightly pointed out by the learned counsel for the petitioner, that insofar as the property in question, it has been originally assigned to the original owner by the Government from whom the petitioner has purchased the property for a valid sale consideration. When that being so, at one point of time attempt was made by the Government side opposing the compound wall put up by the predecessor in title of the petitioner and that was thwarted by filing a writ petition as referred to above. Since there was some cloud raised with regard to the ownership of the property, the same had triggered the predecessor in title of the petitioner to approach the civil court and file a suit. Even though before the trial court the plaintiff became unsuccessful, subsequently he filed A.S.No.54 of 2008 on the file of the Principal District Judge, Chengalpattu who



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passed a judgment and decree dated 15.12.2010 declaring the title of the predecessor in title of the petitioner in respect of the property in question.

14. Thereafter, against the said judgment and decree passed by the 1st appellate Court, no further appeal has been filed and it has become final. When that being the position, as has been stated in the relevant Revenue Standing Orders, there could be no further impediment on the part of the respondents especially the 3rd respondent for issuance of patta in the name of the petitioner.

15. If these kind of cases are coming up for consideration before the revenue authorities, where there is a clear civil court decree and judgment available with the parties and fortified with the same if the parties approached the revenue authorities especially the Tahsildar concerned seeking for patta, the Tahsildar concerned should then and there decide and pass necessary orders granting patta by taking into account the civil court decree.

16. However, in the present case of the petitioner, though the decree has been passed in 2010, the petitioner is not able to get patta and she has been driven from pillar to post and that is why, as a last resort, the petitioner has approached this Court by filing the present writ petition.



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17. Hence, this Court has no hesitation to hold that the inaction on the part of the respondents especially the 3rd respondent cannot be appreciated. However, this Court feels that in order to give a quietus at least at this length of time, this writ petition can be disposed of in the following terms.

- That there shall be a direction to the 3rd respondent to take into account the civil court decree made in A.S.No.54 of 2010 on the file of the Principal District Judge, Chengalpattu dated 15.12.2010 and accordingly pass necessary orders granting patta to the petitioner in respect of the land in question.
- The needful as indicated above shall be undertaken by the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order.

18. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.12.2022

Index : Yes/No

Internet : Yes/No

KST

Note : Issue order copy on 05.01.2023



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To

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- 2.The Revenue Divisional Officer
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- 3.The Tahsildar
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R. SURESH KUMAR, J.

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