

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.09.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4078 of 2013

and

M.P(MD)No.1 of 2013

Mariammal

... Petitioner

Vs.

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Pudukottai.

3.The Tahsildar,
Kantharvakottai Taluk,
Pudukottai District,
Pudukottai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the memorandum made in Na.Ka.No. 11809 dated 09.12.2010 issued by the third respondent and quash the same and consequently direct the third respondent to issue patta in favour of the petitioner with respect to property comprised in S.No.31/4

measuring an extent of 10 cents situated at Thuvar Village, Kantharvakottai Taluk, Pudukottai District.

For Petitioner : Mr.P.R.Prithiviraj
for D.Sadiq Raja

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

This writ petition has been filed challenging an order passed by the third respondent herein, under which the request of the petitioner for transfer of patta in her name was rejected.

2.According to the petitioner, the property was originally owned by one Rengammal. After her death, the petitioner has purchased the property from the husband of the deceased Rengammal by way of registered sale deed, dated 28.08.2002. Based upon the registered sale deed, the petitioner has approached the third respondent for transfer of patta in her name.

3.The third respondent under the impugned order has returned the said application directing the petitioner to furnish the death certificate of

the deceased Rengammal and the legal heirs certificate of the said Rengammal. This order is under challenge in the present writ petition.

4.According to the petitioner along with the application, he has already presented the death certificate of the deceased Rengammal and also a consent deed of the other legal heirs of the deceased Rengammal for transferring patta in her name. However, these two documents were not properly appreciated by the third respondent and the present impugned order has been passed.

5.Per contra, the learned Special Government Pleader appearing for the respondents has contended that unless the legal heirs certificate is produced, the third respondent will find it difficult to ascertain, who are all the legal heirs of the deceased Rengammal.

6.I have carefully considered the submission made on either side.

7.Admittedly, the petitioner has purchased the property from the husband of the deceased Rengammal by way of registered sale deed dated 28.08.2002. Now, the third respondent has returned the request for

transfer of patta on the ground that the death certificate and the legal heirs certificate of the deceased Rengammal have not been produced. The death certificate has already been annexed with the application filed before the third respondent herein. However, instead of producing the legal heir certificate, the petitioner has produced the consent deed from the other legal heirs of the deceased Rengammal. When a consent deed is produced, the authority will find it difficult to verify whether all the legal heirs have signed in the consent deed or not. In such an occasion, unless the legal heir certificate of the deceased Rengammal is produced, the third respondent will not be in a position to transfer the patta in the name of the writ petitioner.

8. In view of the above said facts, the following order is passed:

(i) The order impugned in the writ petition is set aside.

(ii) The petitioner is directed to produce the copy of the death certificate and the legal heir certificate of the deceased Rengammal to the third respondent herein. On such production of the above said documents, the third

respondent is directed to pass order, after giving
an opportunity to all the legal heirs of the
deceased Rengammal within a period of 12
weeks from the date of filing of the documents
by the petitioner.

9.With the above observations, this writ petition stands allowed.

No costs. Consequently, the connected Miscellaneous Petition is closed.

07.09.2022

Index : Yes / No
Internet : Yes / No
vsg

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R.VIJAYAKUMAR ,J.

vsg

Order made in
W.P(MD)No.4078 of 2013

Dated:
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