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W.P.(MD)NO.11831 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11831 of 2022

K.M.K.Loganathan

... Petitioner

Vs.

1. The Commissioner,
Thanjavur City Municipal Corporation Office,
Gandhiji Road,
Shivaji Nagar,
Thanjavur.

2. The Tahsildar,
Court Road,
Thanjavur Head Office,
Thanjavur.

3. The Head Surveyor,
Thanjavur Taluk Office,
Thanjavur.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to grant separate patta in favour of the petitioner herein for the house site measuring an extent of 40' x 150' in Sr.3/2, at Nelairi Therku Thottam, Thanjavur Taluk, in the name of the petitioner herein within the time stipulated by this Court.



For Petitioner : Mr.M.Vijayarathinam
For R-1 : Mr.N.Dilipkumar,
Standing Counsel.
For R-2 & R-3 : Mr.K.Balasubramani,
Special Government Pleader.
* * *

ORDER

Heard the learned counsel on either side.

2. The property in question is comprised in survey No.3/2 in Nelairi Therku Thottam Village, in Thanjavur Taluk. The said land was originally classified as ' anadheenam '. However, petition was filed by one Shanmugmam Pillai before the settlement officer, Thanjavur, in the year 1967. Vide order dated 15.07.1967, the objection raised by the Thanjavur Municipality was rejected and settlement patta was ordered to be granted in favour of the said Shanmugam Pillai. The said Shanmugam Pillai and his sons Natarajan and Kandhasamy sold the property in survey No.3/2 measuring an extent of 1 acre and 7 cents by way of two sale deeds dated 05.05.1972 in favour of Kuppusamy, the father of the writ petitioner herein.

3. It is seen from the Encumbrance Register that the



said Kuppusamy and his sons including the writ petitioner herein sold 75 cents of land in favour of the Government on 10.05.1974. It appears that the survey No.3/2 was never sub-divided. The petitioner seeks issuance of patta in respect of the remaining extent of the land. Kuppusamy had passed away. The other legal heirs of Kuppusamy released their interest in the property in favour of the writ petitioner. Thereafter, the writ petitioner executed a settlement deed dated 28.08.2009 in favour of his brother Vaduganathan. It is seen from the schedule to the said settlement deed 4397½ sq.ft. was settled in favour of Vaduganathan covering T.S.Nos. 3/1 and 3/2. As far as T.S. No.3/2 is concerned, 3560¼ sq.ft. was settled. It is further seen that Vaduganathan has since passed away. His wife and his legal heirs filed O.S.No.419 of 2014 on the file of the District Munsif, Thanjavur, against the Government and the Corporation seeking permanent injunction in respect of the entire survey numbers.

4. In this background, the petitioner moved the revenue authority for issuing separate patta in his name for the petition mentioned house site. On a *prima facie* reading of



the materials on record, I come to the conclusion that the petitioner is entitled only to a lesser extent. Be that as it may, the Tahsildar, Thanjavur, insists on getting objections from Tanjore Corporation. As early as in the year 1967, the settlement authority rejected the objections of the municipal authority. When once the settlement authority has issued proceedings granting settlement patta in favour of Shanmugam Pillai and the same have not been challenged or modified, the revenue record should be in consonance with the same. Moving the Commissioner of Land Administration at this stage also does not arise.

5. I cannot however brush aside the contention of the Municipal corporation that if any public road is running across the property, obviously order cannot be issued covering the road portion also. These are the factual aspects which the Tahsildar, Thanjavur must go into by conducting an enquiry. The Tahsildar, Thanjavur is directed to hold an enquiry into the petitioner's application for issuing patta. In the said enquiry, the legal heirs of Vaduganathan will be heard. The corporation also will be issued with notice for the limited



purpose of finding out if there is any public road running across the property for which patta is sought. I clarify once again that if any public road is running across the property, patta cannot be granted in respect of the said portion. The entire exercise shall be concluded by Tahsildar, Thanjavur within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition stands disposed of on these terms. No costs.

10.08.2022

Index : Yes / No
Internet : Yes/ No

PMU

To:

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2. The Tahsildar, Court Road,
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G.R.SWAMINATHAN,J.

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