



W.P.(MD).No.17068 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17068 of 2016

1. Visalakshi Achi
2. Valli Meyyappan
3. Meenakshi Achi @ Kumara Rani
Vs. ... Petitioners

1. The District Collector,
Sivaganga District,
Sivaganga.

2. The Tahsildar,
Karaikudi Taluk,
Karaikudi,
Sivaganga District.

3. M.A.M.M. Annamalai
4. A.C. Muthaiah
5. M.A.M.R. Ayyappan
... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 2 to issue Ryotwari Patta for S.No.43/7, Kothari Village, Karaikudi Taluk, Sivaganga District pursuant to the decree in O.S.No.38 of 1983 on the file of the District Munsif, Devakottai, dated 13.07.1986, which has been confirmed in appeal and has reached finality



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and in respect of which a direction has also been given by this Court in W.P.No.2671 of 2008, dated.28.11.2008 on the basis of the representation of the 1st petitioner, dated 12.01.2016.

For Petitioners	: Mr.R.Sundar Srinivasan
For R1 and R2	: Mr.P.Thambidurai Government Advocate
For R3 to R5	: No appearance

ORDER

The present writ petition has been filed seeking Mandamus, directing the respondents 1 and 2 to issue patta for Survey No.43/7 Kothari Village, Karaikudi Taluk, Sivaganga District.

2.According to the petitioner, the survey numbers in dispute got vested with the Government under Act 26 of 1948. Though the proceedings initiated by the land owners to get patta under the said act was not successful, they initiated O.S.No.38 of 1983 on the file of District Munsif, Devakkottai, for the relief of declaration of title and permanent injunction as against the State of Tamil Nadu represented by District Collector, Ramanathapuram. The said suit was decreed. Thereafter, the District Collector had filed A.S.No.1 of 1987, before Sub



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Court, Devakkottai. The appeal filed by the District Collector of Ramanathapuram was dismissed confirming the title and possession of the writ petitioner.

3. According to the petitioner, even after the Sub Court decree, patta was not granted in favour of the original land owner. Hence, they filed W.P.No.2671 of 2008 before this Court. By an order, dated 28.11.2008, this Court has issued a positive direction to the revenue authorities to grant patta within a period of one month from the date of receipt of copy of the order subject to the result of the proposed second appeal. Not being satisfied with this said order, the District Collector and Tahsildar had filed the writ appeal in W.A.(MD)No.648 of 2010. The Division Bench of this Court by its order, dated 09.08.2011, confirmed the said order and gave a positive direction to the revenue authorities to issue patta with necessary endorsement that the patta will be subject to final result in the second appeal.

4. On perusal of the counter affidavit filed by the respondents that



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against the judgement and decree in A.S.No.1 of 1987, the first respondent is stated to have filed S.A.SR No.24049 of 2005. So far the respondents have not taken any steps to number the second appeal for the past 17 years.

5.In the light of the above said facts, the present writ petition has been filed seeking a direction to the first and second respondents for issuance of patta.

6.The only defence taken in the counter is that the petitioner had suppressed the order passed in W.P.No.338 of 1976, in which the request of the original owner for grant of patta under the Act 26/48, was rejected by this Court. It is a settled possession of law that even if patta is rejected by the statutory authorities and confirmed by this Court under Act 26/1948, Civil Court could decide the issue of title and possession of the land owner. That apart, the same defence was taken by the respondents herein under W.P.(MD)No.2671 of 2008. After rejecting the said defence a positive direction has been issued against the revenue



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authorities for grant of patta. The writ appeal was also filed on the same ground that the order in W.P.No.338 of 1976 has not been disclosed by the writ petitioner. The Division Bench has also rejected the said contention and has issued a positive direction to the revenue authorities for grant of patta with an endorsement that this is subject to the result of the proposed second appeal.

7.In view of the above said facts, it is clear that the respondent authorities have violated an order, dated 09.08.2011, made in W.A.(MD)No.648 of 2010. Though a positive direction has been issued by the learned Single Judge and confirmed by the Division Bench, the authorities have shown scant respect to the orders of this Court and so far they have not issued patta to the writ petitioner. The respondents have also not numbered the second appeal for the past 17 years. Hence, the respondents 1 and 2 are directed to issue patta to the writ petitioner in compliance with the orders of this Court, dated 09.08.2011, made in W.A.(MD)No.648 of 2010 within a period of eight weeks from the date of receipt of a copy of this order. The time schedule shall be strictly



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adhered to by the authorities in view of the previous Division Bench order.

8. With the above said observation, the writ petition is allowed. No

costs.

25.08.2022

Index : Yes / No

Internet : Yes / No

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R.VIJAYAKUMAR ,J.

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To

1.The District Collector,
Sivaganga District,
Sivaganga.

2.The Tahsildar,
Karaikudi Taluk,
Karaikudi,
Sivaganga District.

Order made in
W.P.(MD).No.17068 of 2016

25.08.2022