



W.P(MD)No.25

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25264 of 2022

Mohaiyatheen Pathumal

... Petitioner

Vs

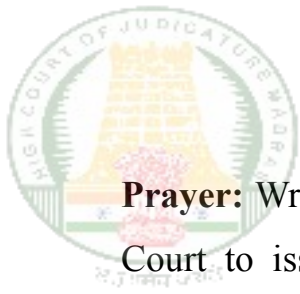
1.The District Collector,
Office of District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Office of Tahsildar,
Shengottai Taluk,
Tenkasi District.

3.M.Ayyappan,
S/o. Murugaiah Mudaliar,
Door No.54A/112-1,
Pillaiyar Kovil Street,
Pudhur Nagar, Pudhur Village,
Shengottai Taluk,
Tenkasi District.

4. A.Velammal,
W/o.Ayyappan,
Pillaiyar Kovil Street,
Pudhur Nagar, Pudhur Village,
Shengottai Taluk,
Tenkasi District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to direct the 2nd respondent to grant patta for the property in old S.No.30/3, New Survey No.187/7 to an extent of 82 cents in Puthur Village, Shengottai Taluk, Tenkasi District as per the Decree in O.S.No.132/2011 dated 23.08.2014 and Interim Order in C.M.P.(MD)No. 6358/2022 in S.A.(MD)No.492/2022 dated 25.07.2022 by considering the petitioner's representation, dated 16.09.2022.

For Petitioner	: Mr.A.Haja Mohideen
For R1 & R2	: Mr.D.Gandhiraj, Special Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the 1st respondent to direct the 2nd respondent to grant patta for the property in old S.No.30/3, New Survey No.187/7 to an extent of 82 cents in Puthur Village, Shengottai Taluk, Tenkasi District as per the Decree in O.S.No.132/2011 dated 23.08.2014 and Interim Order in C.M.P.(MD)No.6358/2022 in S.A.(MD)No.492/2022 dated 25.07.2022 by considering the petitioner's representation, dated 16.09.2022.

2.Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner, Mr.D.Gandhiraj, learned Special Government Pleader appearing for the respondents.



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3.The learned counsel appearing for the petitioner would submit that the petitioner's father has bequeathed the subject property in Old Survey No.30/3, New Survey No.187/7 an extent of 82 cents in Puthur Village, Shengottai Taluk, Tenkasi District through Registered Settlement Deed, dated 02.03.1961 and he has been in the peaceful possession and enjoyment of the subject property. Thereafter, he was settled at Chennai and he has appointed his relative Mohammed Fasaludeen for maintaining the subject property. In the said circumstances, the respondents 3 and 4 have claim rights on the subject property and trespassed. Hence, he has filed a suit in O.S.No.132/2011 for declaration and recovery of possession by the said Mohammed Fasaludeen and got decree in his favour on 23.08.2014. In the said circumstances, the respondents Nos.3 & 4 have filed an appeal in A.S.No.41/2021 against the decree in O.S.No.132/2011 dated 23.08.2014 and it was decreed in favour of them on 28.03.2022.

4. Challenging the said decree and judgment in A.S.No.41/2021, the petitioner filed second appeal in S.A(MD)No.492 of 2022 before this Court along with C.M.P(MD)No.6358 of 2022 and this Court has granted an order of interim stay on 25.07.2022. At present the order of the suit in O.S.No.132/2011 is currently in force. Further, the revenue records for the subject property are also in his name. he sent a detailed representation to the respondents 1 & 2 and other officials on 16.09.2022 seeking patta for the subject property. There is no one to object for the same and



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suppose if anyone object, the second second respondent may hear them and pass suitable order. Therefore, in the interest of justice, it is just and necessary to direct the first respondent to direct the second respondent to grant patta for the property in Old Survey No.30/3, New Survey No.187/7 an extent of 82 cents in Puthur Village, Shengottai Taluk, Tenkasi District as per the decree in O.S.No.132/2011 dated 23.08.2014 and Interim order in C.M.P(MD)No.6358 of 2022 in S.A(MD)No.492 of 2022 dated 25.07.2022 by considering his representation, dated 16.09.2022.

5. The learned Special Government Pleader appearing for the respondents 1 & 2 would submit that regarding the above said survey number, civil suit has already been filed and the same was decreed in favour of the petitioner and thereafter, appeal suit was filed by the defendant and that was reversed as against the petitioner. Hence, the petitioner filed second appeal and in the second appeal interim stay was granted and that was not further extended hence, he prayed for dismissal of the writ petition.

6. It is seen from the records that the petitioner filed the suit in O.S.No.132/2011 and declaration and recovery of possession and the same was decreed in favour of the petitioner on 23.08.20214. Aggrieved against the same, the respondents 3 & 4 filed an appeal in A.S.No.41/2021 and that was decreed in favour of them and against the petitioner. Challenging the same, the petitioner filed second appeal in S.A(MD)No.492



of 2022 and this Court has granted an interim stay for a period of four weeks and there is material to show that the interim stay was further extended.

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7. This Court is of the view that based on the interim order granted by this Court, the authorities cannot mutate the documents and the petitioner can wait till the disposal of the second appeal and thereafter, the proceed further and at this juncture, the writ petition is not maintainable. Accordingly, the writ petition stands dismissed. No costs.

08.11.2022

Index : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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