



WEB COPY



W.P.No.31788 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.31788 of 2023

and

W.M.P.No.31412 of 2023

S.Dhanakodi

... Petitioner

Vs.

1. The Tahsildar,
Srimushnam Taluk,
Srimushnam,
Cuddalore District.

2. Kavitha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to issue patta to the petitioner's property situated in Old Survey No.116, New Survey No.163/10, Kokkarasanpettai Village, Srimushnam Taluk, Cuddalore District in pursuance to the order dated 17.07.2023 made in Na.Ka.No.5948/A2/2022 on the file of the District Registrar, Virudhachalam.



W.P.No.31788 of 2023

For Petitioner : Mr.C.Munusamy

For R1 : Mr.P.Gurunathan

For R2 : No appearance

ORDER

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the first respondent to issue patta to the petitioner's property situated in Old Survey No.116, New Survey No.163/10, Kookkarasanpettai Village, Srimushnam Taluk, Cuddalore District in pursuance to the order dated 17.07.2023 made in Na.Ka.No.5948/A2/2022 on the file of the District Registrar, Virudhachalam.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondent.



W.P.No.31788 of 2023

WEB COPY

3. Learned counsel for the petitioner submitted that the petitioner's husband owned the property in question through court auction. Taking advantage of the fact that the petitioner is not having patta in her name, the private respondent fraudulently obtained patta and registered a gift deed dated 02.02.2022 in favour of her son and subsequently the same was cancelled. Therefore as per title, the petitioner is entitled to obtain patta. Hence, the petitioner prays to give direction to the first respondent to issue patta in her name.

4. The first respondent in their counter stated that the petitioner is not in possession of the property in question and the second respondent is in possession of the property. The petitioner herself admitted that after the death of her husband, she was out of native and she was not in possession of the property.

5. Under the above facts and circumstances, whether the petitioner is in possession or not and whether the land is a nathan land or not are all question of facts that has to be decided only by the Civil Court. The case



W.P.No.31788 of 2023

of the petitioner includes the right, title and interest over the property and this Court cannot go into the question of right, title and interest of the parties and the same should be determined by a civil court. Hence, the petitioner is directed to work out her remedy before the competent Civil Court, regarding right and title of the property.

6. With the abovesaid direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Tahsildar,
Srimushnam Taluk,
Srimushnam,
Cuddalore District.



WEB COPY



W.P.No.31788 of 2023

P.VELMURUGAN, J.

mfa

W.P.No.31788 of 2023
and
W.M.P.No.31412 of 2023

15.12.2023