



W.P(MD)No.927 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.927 of 2023

and

W.M.P(MD)No.871 of 2023

- 1.Leela
- 2.K.Crishthu Dhas
- 3.K.Stella
- 4.K.Mega
- 5.K.Janey
- 6.Prema
- 7.J.P.Rejinose
- 8.Vijin
- 9.J.P.Jaspinviji
- 10.K.Dhass
- 11.Shaji
- 12.Yemima

... Petitioners

Vs.



W.P(MD)No.927 of 2023

1.The District Collector
Kanyakumari District.

2.The Thasilthar
Vilavancode Taluk,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order vide Na.Ka.A2/5840/2022 dated 17.11.2022 passed by the second respondent and quash the same as illegal and consequently direct the respondents to issue patta in favour of the petitioners with respect to Survey No.260/6 correlated to Old Survey No.110 of Vellamcode Village.

For Petitioners : Mr.K.P.Narayanakumar

For Respondents : Mr.J.Ashok,
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking interference with an order passed by



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the second respondent / Tahsildar, Vilavan Code Taluk, Kannyakumari District, dated 17.11.2022. The said order was passed on an application given by the petitioner seeking patta for the lands in Survey No.260/6 relating to old Survey No.110 Vellamcode Village, Kannyakumari District.

2. In the impugned order, it had been stated that a suit in O.S.No.19 of 2005 is pending before the District Munsif Court, Kuzhithurai.

3. The learned counsel for the petitioners however stated that there has been a litigation that among the petitioners and other family members and finally the title had been declared in favour of the petitioners. It has been stated that to protect possession, the petitioners had filed O.S.No.19 of 2005. It is not a suit relating to title of the property. It is only a suit seeking to restrain from interfering with peaceful possession.



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4. It is therefore, contended by the learned counsel that the pendency of the suit would have no bearing at all on the issue of patta. It is therefore contended that the said reason given by the Tahsildar should be interfered with by this Court.

5. The learned Additional Government Pleader however stated that the Patta Passbook Act, provides a particular procedure by which an order of the Tahsildar should be re-examined and that should be only by filing an appeal before the jurisdictional Revenue Divisional Officer. It is contended that the Tahsildar would not have any powers to revisit his own orders. It is a fact that suit in O.S.No.19 of 2005 is pending and the Tahsildar had only reiterated the very same position.

6. Having heard the learned counsels, I would direct the petitioner herein to file an appeal on or before 30.06.2023 before the jurisdictional Revenue Divisional Officer and if it is so filed, the issue of limitation may not be put against the petitioners herein. The copy of the plaint and the copy of the decree in O.S.No.19 of 2005 may be produced by the petitioner before the Revenue Divisional Officer who may



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examine the same and if he comes to a conclusion that the relief in the suit does not affect the title of any of the parties and relates only to possession, may take a considered decision relating to grant of patta. If he entertains any doubt, he may also issue notice to the defendants in the said suit and after hearing all parties, pass necessary orders. If the appeal is filed on or before **30.06.2023**, an endeavour may be made to dispose of the appeal on or before **31.10.2023**.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

15.06.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM



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C.V.KARTHIKEYAN, J.

RM

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