



W.P.(MD) No.4186 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.4186 of 2020

Nalinam

... Petitioner

Vs

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram at Thuckalay,
Kanyakumari District.

3.The Tahsildar,
Thiruvattar Taluk,
Thiruvattar,
Kanyakumari District.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the third respondent herein to issue patta to the petitioner, in respect of the “Petition scheduled property” comprised in south western portion of Old Survey



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No.426 Plot No.5 as per partition deed and plot No.6 as per Pokkuvaravu proceedings now forming the western protion of Resurvey No.419/4, Aruvikarai Desom and village, the then Kalkulam Taluk, Thiruvattar Sub District, now Thiruvattar Taluk, Kanyakumari District, for an extent of 12 ½ cents, within a period stipulated by this Court and further direct the respondents herein to carry out necessary corrections in the revenue records as per the terms of judgment and decree made in O.S.No.13 of 1985, on the file of the learned Subordinate Judge, Padmanabhapuram.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

This writ petition is filed by the petitioner seeking for the issuance of writ of mandamus directing the third respondent to issue a patta in respect of the petition schedule property, which is an extent of 12½ cents comprised in the south-western portion of Old Survey No.426, Plot No.5



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as per partition deed and plot No.6 as per Pokkuvaravu proceedings, now forming the western portion of Resurvey No.419/4, Aruvikarai Desom and Village, the then Kalkulam Taluk, Thiruvattar Sub District, now Thiruvattar Taluk, Kanyakumari District, within the stipulated time and carry out the correction in the revenue records as per the decree in O.S.No.13 of 1985 on the file of the learned Subordinate Judge, Padmanabhapuram.

2.The facts which are required to dispose of the above writ petition are herein below set out:-

The petitioner would submit that she is the absolute owner of the property, which is the subject matter of this writ petition. Originally, the property formed part of a larger extent of 1 Acres 11 cents and 410 sq. ft. in Survey No.426, R.S.No.419/3. This was the ancestral property of one Narayani Amma under the partition amongst the family members in 1117-ME (Approximately 1942). The revenue records were mutated in her name. In the year 1951, the Travancore-Cochin State had acquired an extent of 21.600 cents of land in the south-eastern side for establishing



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the primary school and Narayani Amma had received the compensation amount pursuant to the proceedings in L.P.A.No.192 of 1951. After this acquisition, 19 cents of land remained as a single plot.

(ii) Although the property was acquired for the purpose of the school, there was no clear demarcation separating the school and the property of the Narayani Amma. On 19.03.1973, Narayani Amma had settled the property measuring an extent of 90 cents in plot No.5 to her daughter Geethakumari. From the date of the settlement, Geethakumari was put in possession of the same. During the resurvey that was conducted in the year 1974, the respondents due to oversight and by an error, demarcated and carved out an extent of 12½ cents in plot No.5 adjacent to the property of the school. The remaining property was classified as R.S.No.419/3 and the portion which had been wrongly classified was allotted Resurvey No. 419/4. The said Geethakumari and Narayani Amma had not received any notice prior to the resurvey and they had been kept in the dark of the same. In fact, this erroneous entry was not noted by the petitioner's vendor in title, since they have been in



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possession and occupation of the entire extent of land including the lands comprised in R.S.No.419/4.

(iii) On 05.01.1984, the petitioner had purchased the total extent of 90 cents from Geethakumari and he was put in possession. It is only thereafter the error had been noticed. Therefore, Geethakumari and the petitioner herein had filed O.S.No.13 of 1985 on the file of the Subordinate Court, Padmanabhapuram, for the relief of declaration and injunction and to carry out necessary corrections in the revenue records to rectify the mistake. The defendants 2 and 3, who are private persons had been added as formal parties. The relief has been sought only against the first defendant, who is the first respondent herein, namely, the District Collector, Nagercoil. After a full-fledged trial, the suit was decreed as prayed for. The learned Judge had directed the respondent to delete the wrong entry. Against this judgment and decree, the first respondent had filed an appeal with inordinate delay and I.A.No. 7 of 1991 in A.S.SR.No.3683 of 1989 was filed by the first respondent on the file of the learned Subordinate Judge, Kanyakumari at Nagercoil.



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However, the learned Judge had proceeded to dismiss the above application, against which, there was no further appeal. With the culmination of all the proceedings, the petitioner had given representation to have the entries rectified and patta issued to him. The same did not evoke any response. Therefore, the petitioner has come forward with the present writ petition.

3.The learned Government Advocate appearing for the respondents would submit that the petitioner has not shown any proof about her ownership of the land. He would further submit that the petitioner has to invoke alternate remedy by filing necessary appeal and sought for dismissal of the writ petition.

4.Heard the learned counsel appearing on either side.

5.Despite being a party in the civil suit and being aware about the orders passed in the civil suit, in and by which, the petitioner's right to the property in question has been declared and subsequent appeal filed



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by the State has also been ended in a dismissal, it is rather strange that the first respondent would seek proof of ownership. In the light of the decree decree declaring the petitioner to be owner of the property and injunction restraining the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property, the respondent cannot refuse to mutate the revenue records in the petitioner's name. Therefore, while allowing the above writ petition where the prayer is for considering the representation, this Court, exercising its extraordinary jurisdiction and considering the Civil Court's decree directs the respondents to issue patta in respect of petition mentioned property within a period of six weeks from the date of receipt of a copy of this order. No costs.

15.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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P.T.ASHA, J.

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