



W.P.(MD).No.12222 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.12222 of 2020

and

W.M.P.(MD)No.27 of 2022

Sudalaimani

... Petitioner

Vs.

1.The District Collector,
Tuticorin, Tuticorin District.

2.The Tasildhar,
Tuticorin, Tuticorin District.

3.E.Jeyarani

... Respondents

***(R3 is impleaded, vide Court order, dated
13.06.2023, in WMP(MD)No.5945 of
2021 in WP(MD)No.12222 of 2020)***

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Mandamus***, to direct the 2nd respondent to issue the free patta in the survey No.223/7 and plot No.33 its layout formed by the Government and its allotted to the house less poor people pursuant to the petitioner's representation, dated 31.01.2020 and 03.08.2020.

For Petitioner	: Mr.S.Arumugam
For R-1 and 2	: Mr.B.Saravanan Additional Government Pleader
For R-3	: Mr.B.Rajesh Saravanan



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ORDER

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This writ petition is filed for writ of *Mandamus*, to direct the 2nd respondent to issue the free patta in the survey No.223/7 and plot No.33 its layout formed by the Government and its allotted to the house less poor people pursuant to the petitioner's representation, dated 31.01.2020 and 03.08.2020.

2.The contention of the petitioner is that he is occupying the said place for more than 40 years, but the respondents failed to issue patta officially. The petitioner has filed this writ petition without impleading one E.Jeyarani wife of Late.Essakimuthu. The said plot was allotted to the said Jeyarani's husband through the assignment patta as early as 30.03.1992.

3.Subsequently the petitioner had filed an impleading petition in W.M.P. (MD)No.5945 of 2021 and the same was allowed and the said Jeyarani was impleaded as 3rd respondent.

4. Even though subsequently the said Jeyarani was impleaded, but the fact remains the petitioner has filed this writ petition without impleading the necessary party, which shows that the petitioner's attitude that she intended to



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obtained order behind the back of the said Jeyarani. Moreover it is seen that there are disputes between the petitioner and the 3rd respondent, for which the 3rd respondent has filed a civil suit. Since a civil suit is pending, the rights of the parties ought to be determined only by the civil suit and not by the revenue authorities. The petitioner is claiming to consider the representation before the revenue authorities which can never be permitted, when the title of the property is in dispute, the appropriate remedy is only civil suit.

5. Therefore, this Court is not inclined to entertain this writ petition. The parties are directed to contest the civil suit and based on the outcome of the said suit the parties shall approach the revenue authorities. Thereafter, the revenue authorities shall act upon the judgment passed by the Civil Court.

6. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.08.2023

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



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To

- 1.The District Collector,
Tuticorin, Tuticorin District.
- 2.The Tasildhar,
Tuticorin, Tuticorin District.



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S.SRIMATHY, J.

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