



WEB COPY



W.P.No.31226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31226 of 2024
and W.M.P.No.33860 of 2024

Sivakumar

... Petitioner

VS.

1.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District.

2.The Village Administrative Officer,
Vachathi Village,
Pappireddipatty Taluk,
Dharmapuri District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent made in file No.2024/0103/05/259783 dated 31.05.2024, to quash the same and consequently direct the Respondents to make suitable entries in the revenue records and issue patta in the name of the petitioner in Survey No.16/1C4, 16/6 of Vachathi Village, Pappireddipatti Taluk, Dharmapuri District.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

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The writ petition is filed challenging the order passed by the 1st respondent made in No.2024/0103/05/259783, dated 31.05.2024, rejecting the application filed by the petitioner for patta transfer on the ground that he failed to prove his possession over the subject property.

2. It is the case of the petitioner that the subject property was acquired by his father under a Sale Deed executed by Sub Court, Harur as per the decree passed in Specific Performance Suit in O.S.No.28 of 1988. Thereafter, petitioner's father filed execution petition in E.P.No.24 of 2011 and possession was also delivered to him through Court on 18.07.2022 as seen from the Delivery Account furnished in the typed-set of papers. After death of petitioner's father, he has been in possession and enjoyment of the property as his legal heir. The petitioner submitted an application before the 1st respondent seeking issue of patta on the strength of sale deed executed by the Court and the delivery account. The same has been rejected by the 1st respondent by passing the impugned order on the ground that petitioner failed to prove his possession over the subject property.



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3. The impugned order is only an online entry mentioning the rejection of petitioner's application for transfer of patta. When the writ petition came up for hearing on 28.10.2024, the learned Additional Government Pleader, who took notice for respondents 1 and 2, was directed to get instructions regarding the fact whether any detailed order was passed in support of the impugned order.

4. Today, the learned Additional Government Pleader appearing for the respondents, on instructions, submits that no detailed order has been passed and petitioner was also not heard before passing the impugned order. Therefore, it is clear that the impugned order was passed by violating the natural justice principles. Further, when the property was delivered to the petitioner through Court, he is presumed to be in possession of the property and 1st respondent cannot take a different view with regard to the possession.

5. When the petitioner's title over the property is proved by virtue of the sale deed executed by the Court, the 1st respondent is not entitled to reject the request of the petitioner for transfer of patta on the ground that the petitioner failed to prove his possession.



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6. In view of the same, the impugned order passed by the 1st respondent made in No.2024/0103/05/259783, dated 31.05.2024 is set aside. The matter is remitted back to the file of 1st respondent with a direction to consider the request of the petitioner for transfer of patta in the light of the sale deed executed by the Sub Court, Harur in favour of the petitioner dated 22.09.2011 and delivery account issued by the said Court handing over the possession of the property in execution proceedings. The final order shall be passed by the 1st respondent within a period of six weeks from the date of receipt of copy of this order.

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

30.10.2024
(2/2)

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

1.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District.

2.The Village Administrative Officer,
Vachathi Village,
Pappireddipatty Taluk,
Dharmapuri District.



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S.SOUNTHAR, J.

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