



WEB COPY



WP.No.37689 of 2024

In the High Court of Judicature at Madras

Dated : 18.12.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.37689 of 2024 &
WMP.No.40750 of 2024

V.Kozhandhaimmal

...Petitioner

Vs

1.The District Collector, Salem
District, Salem.

2.The Tahsildar, Salem District,
Salem.

3.The Revenue Inspector,
Panamarathupatty Village,
Salem District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd respondent in Na.Ka.No.1807/2024/A2 dated 18.11.2024, quash the same and consequently direct the respondents to grant house site patta for 400 sq.feet of land in Survey No.58/11, Poomalaikaradu, Panamarathupatty Village, Salem District.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.A.Selvendran, SGP

ORDER

Challenging the order passed by the second respondent in



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Na.Ka.No.1807/2024/A2 dated 18.11.2024 and to direct the respondents to grant a house site patta for 400 sq.feet of land in Survey No.58/11, Poomalaikaradu, Panamarathupatty Village, Salem District, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondents.

3. The case of the petitioner is that in the year 1970, she occupied 400 sq.ft. in Poomalaikaradu in S.No.58/11 and put up a house with a tin sheet. She is residing in the said property to date. The petitioner's daughter and son in law sold away their agricultural lands in S.Nos.51/3, 51/4 and 58/13 in the year 2020 and the entire sale consideration was used for settling the debts. The petitioner, being a widow aged 85 years, made a request to the respondents to issue a house site patta in respect of S.No.58/11 measuring 400 sq.ft. The representation dated 21.8.2020 was sent by the petitioner to the respondents and others followed by the reminder dated 01.8.2024.

4. Since there was no response, earlier, the petitioner filed W.P.No.24551 of 2024 seeking a direction to the respondents to consider and pass orders on the petitioner's representations dated



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21.8.2020 and 01.8.2024. The Hon'ble First Bench of this Court, by order dated 22.8.2024, disposed of the said writ petition directing the second respondent to consider the said representation of the petitioner dated 01.8.2024. This Court also directed the petitioner to submit an explanation to the notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Pursuant to the earlier directions of this Court, the impugned order came to be passed by the second respondent rejecting the said representation of the petitioner dated 01.8.2024. Hence the writ petition.

5. The learned counsel for the petitioner submits that the petitioner is a landless poor and that the subject property belongs to her sons.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

7. A reading of the impugned order would show that the request of the petitioner had been rejected on the ground that the petitioner had also possessed the natham land in S.No.141/10 measuring 0.0038.5 sq.meters in Sandhiyur Aattayampatti Village in patta No.95.



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8. One more ground for rejecting the request of the petitioner was that the petitioner had encroached into the subject land in S.No.58/11, which is described as a hill poramboke. Even in the affidavit filed in support of the writ petition, the petitioner clearly stated that it is only five years ago that she had come into possession of the subject property, the relevant portions of which are stated as follows :

"The petitioner is a widow aged about 85 years and she has been residing in the said small house measuring about 400 sq.ft. in survey No. 58/11 for the past five years."

9. Therefore, considering the fact that the petitioner has recently got into possession of the subject property, the impugned order passed by the second respondent cannot be said to be illegal.

10. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected WMP is also dismissed.

18.12.2024

RS



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P.T.ASHA,J

RS

To

- 1.The District Collector, Salem District, Salem.
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- 3.The Revenue Inspector, Panamarathupatty Village, Salem District.

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