



W.P.(MD) No.21023 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.21023 of 2022

Maryisabella

... Petitioner

/vs./

1.The Commissioner,
Commissionarate of Land Administration,
Chepauk,
Chennai.

2.The District Collector,
Kanyakumari District
at Nagercoil,

3.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to bifurcate an extent of One Acre and Ten Cents (1 Acre 10 Cents) from Re.Sy.No.608/1 of Kollencode village, Kanyakumari District and may grant patta in favour of the



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petitioner in a stipulated time as fixed by this Court.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.B.Saravanan

Additional Government Pleader

ORDER

The above writ petition has been filed for the issue of a Writ of Mandamus to direct the respondents 1 and 2 to bifurcate an extent of 1 acre and 10 cents from Re.Sy.No.608/1 of Kollencode village, Kanyakumari District and to grant patta in favour of the petitioner.

2. The petitioner would submit that her father had purchased the property in question on 29.11.1121 M.E/(equivalent to 1946-Gregorian Calendar). Thereafter, the property was settled in favour of the petitioner, who has been enjoying it since then. During the resurvey, the petitioner would submit that an error had happened and the property of the petitioner totally measuring an extent of 2 acres and 15 cents was bifurcated into an extent of 1 acre and 23 cents in R.S.No.608/1 and 90 cents in R.S.No.608/2. Further, along with the petitioner's property some other extent of lands were included in Re.S.No.608/1 and it was classified as Government Poramboke.



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3. The petitioner had also filed a suit O.S.No.236/1992 for declaration and permanent injunction, since the Officials attached to the office of the respondents 2 and 3 had attempted to interfere with his possession and enjoyment of the property. An order of *status quo* was ordered. Despite such an order, the Officials of the third respondent had trespassed and cut down 80 yielding coconut trees. The petitioner had therefore filed a suit O.S.No.52 of 1993 claiming compensation of Rs.75,000/-. The declaration suit filed by the petitioner was decreed and in the suit for damages, damages of Rs.35,000/- with interest at 6% was ordered. Since the amount was not paid, the petitioner had filed E.P.No.93 of 2008, which was allowed on 19.10.2009. The same was challenged by the respondents by filing C.R.P.(MD) No.1732 of 2009 and an interim conditional order was passed directing the respondents to pay the decree amount. The same was also paid and the Civil Revision Petition was dismissed as infructuous.

4. Thereafter, it appears that the State had filed two appeals with a delay of 4179 days challenging the decree passed in O.S.No.236 of 1992, which was later renumbered as O.S.No.6 of 1996. The said applications were dismissed by an



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order dated 08.02.2012 and 05.03.2010 and no Revision was filed against the same. Therefore, the decree in O.S.Nos.6 of 1996 and 52 of 1993 had become final. Therefore, the petitioner has requested the respondents to change the patta in respect of R.S.No.608/1. Since there was no response, the writ petition has been filed.

5. A counter has been filed by the third respondent, wherein it had been stated as follows:

"The respondents have great respect to the law of this nation and towards the Hon'ble Court which enforce the rule of the law on the country. The state Government has every right to execute all legal remedies. The respondents are preparing further appeal and after exhausting all the appellate legal remedies action would be taken on the request of the petitioner based on the verdict of the Hon'ble Court and rules of the law."

6. Therefore, taking into account of the fact that the decree passed in O.S.No.6 of 1996 has become final, since no appeal has been filed by the



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respondents, a Mandamus is issued to the respondents to reclassify the land and to issue patta in favour of the petitioner within a period of 8 weeks from the date of receipt of a copy of this order.

7. In fine, the Writ Petition stands disposed of. No costs.

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

28.08.2024

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To

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P.T.ASHA, J.

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