



W.P.(MD) No.11200 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.11200 of 2018

and

W.M.P.(MD) Nos.10221 of 2018 and 23103 of 2019

S.Rengasamy

... Petitioner

/vs./

1.The District Collector,
Pudukkottai,
Pudukkottai District.

2.The Revenue Divisional Officer,
Aranthangi Taluk,
Pudukkottai District.

3.The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in O.Mu.3449 / 2017 / A1 dated 23/04/2018, and quash the same as arbitrary and consequently direct the



W.P.(MD) No.11200 of 2018

respondents to grant patta in the legal heirs of Sembulingam for Survey No.403/1 with an extent of 2 cents in Mettukkannakkan Vetti Vayal Village, Alapiranthan Revenue village, Kulathur Post, Aranthani Taluk, Pudukottai District expect the pathway found in the Commissioner Report in O.S.No.2 of 1984 on the file of the District Munsif, Aranthangi.

For Petitioner : Mr.K.Baalasundharam

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorarified Mandamus to quash the order of the third respondent in his proceedings in O.Mu.3449 / 2017 / A1 dated 23/04/2018 and to direct the respondents to grant patta in the legal heirs of Sembulingam for S.No.403/1 at Mettukkannakkan Vetti Vayal Village, Alapiranthan Revenue village, Kulathur Post, Aranthani Taluk, Pudukottai District, expect the pathway found in the Commissioner's Report in O.S.No.2 of 1984 on the file of the learned District Munsif, Aranthangi.



W.P.(MD) No.11200 of 2018

WEB COPY

2. The grievance of the petitioner is that despite a civil Court declaring the petitioner's father's right in S.No.403/1, measuring an extent of 2 cents, at Mettukannakan Vetti Vayal Village, Alapiranthan Revenue Village, Kulathur Post, Aranthangi Taluk, Pudukkottai District, the request for grant of patta has been declined by the third respondent.

3. The learned Government Advocate for the respondents would submit that the property in question is a public pathway. The suit O.S.No.2 of 1984 was filed by the petitioner's father and others for declaration and injunction. The suit was decreed, against which A.S.No.166 of 1995 was filed before the learned District Judge, Pudukkottai and the learned District Judge, Pudukkottai had allowed the appeal and set aside the judgment and decree in O.S.No.2 of 1984. The plaintiffs, namely the petitioner's father and others had taken up the judgment on appeal before this Court in S.A.(MD) No.884 of 1997. This Court, by judgment dated 03.08.2011, had declared the title of the plaintiffs in respect of the said property except the pathway, which has been described in the Commissioner's report, Ex.X1. The petitioner is now seeking patta in respect of this pathway.



W.P.(MD) No.11200 of 2018

WEB COPY

4. That apart, the learned Government Advocate has produced a judgment of the Hon'ble Division Bench of this Court in ***W.P.(MD) No.25298 of 2018 (Suresh Vs. The District Collector, Pudukottai and others)***, wherein this Court had issued a Mandamus to remove the encroachment made by the petitioner herein on the public pathway. It appears that pursuant to the orders of this Court, the encroachment was removed and the pathway had been restored to its original state pending this writ petition. The Tahsildar has also submitted a memorandum that the property measuring 0.16.5 ares in S.No.403/38 is described as Sarkar Poramboke Nilaviyal Pathai in the revenue records.

5. Considering the above facts, the impugned order does not suffer from any error and consequently, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

10.09.2024



W.P.(MD) No.11200 of 2018

WEB COPY

To

- 1.The District Collector,
Pudukkottai,
Pudukkottai District.
- 2.The Revenue Divisional Officer,
Aranthangi Taluk,
Pudukkottai District.
- 3.The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.



WEB COPY



W.P.(MD) No.11200 of 2018

P.T.ASHA, J.

mm

W.P.(MD) No.11200 of 2018

10.09.2024