



W.P.(MD) No.12314 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.12314 of 2018

S.Narasimman

... Petitioner

/vs./

**1.The District Collector,
Dindigul District,
Dindigul.**

**2.The Tahsildar,
Aathur Taluk,
Aathur, Dindigul 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 impugned passed by the 1st respondent vide his proceedings in Moo.Mu.No. 26930/2016/D3 dated 16.04.2018 and quash the same as illegal and consequentially direct the respondents to issue patta to the petitioner in respect of the property in Survey No.1314/2 situates in Sitharevu Village, Aathur Taluk, Dindigul District with an extent of 17 cents within a time as stipulated by this Court.



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For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

Challenging the order passed by the first respondent, the District Collector on the ground that there is a non application of mind, the petitioner is before this Court seeking to issue of a Writ of Certiorarified Mandamus to quash the said order and consequently to issue patta in favour of the petitioner.

2. The petitioner's contention is that the property in S.No.1314/2, measuring an extent of 17 cents, at Sithaveru Village, Dindigul District has been in the possession of the family members of the petitioner over a century. The properties are classified as Grama Natham and after the demise of his father, Subba Naidu, on whom the property had devolved under partition, the petitioner has been in effective possession of the property. The revenue records including the 'A' register has been mutated in his name and he has been remitting the taxes without default till the date of filing of this petition.



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3. The petitioner would submit that on 02.08.2013, he had made an application to the first respondent to issue a patta in respect of the petition mentioned property in his favour. Since there was no further proceedings on the side of the first respondent, the petitioner had approached this Court by filing W.P.(MD) No.16856 of 2016 and by an order dated 07.09.2016, this Court had directed the first respondent to pass orders on the application within a period of 8 weeks. The petitioner would submit that even thereafter steps were not taken to consider the request. He had produced all the revenue records, tax receipts as well as the resolution of the Sithaveru Panchayat dated 06.08.2010.

4. Meanwhile, one Selvaraj had filed W.P.(MD) No.1537 of 2011 stating that the petitioner was an encroacher and therefore should be evicted. The respondents in their counter had themselves admitted that the petitioner has been in possession of the property in S.No.1314/2 for a very long period and they have also referred to the resolution passed by the Panchayat in connection with the grant of patta in favour of the petitioner. However, to the utter shock of the petitioner, he has been slapped with the impugned order and aggrieved by the same, the petitioner is before this Court.



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5. Heard the learned counsel on either side.

6. A reading of the impugned order would indicate that the first respondent has proceeded on misconception that already the petitioner has been given a patta in respect of another land in S.No.1320/10 and further, the petitioner has not put up the construction in the property now in question and therefore, he is not entitled to the patta.

7. The reason of the first respondent indicates that the request of the petitioner is for an assignment patta. However, the second respondent totally failed to appreciate that the petitioner is seeking patta in respect of the property, which was described as Natham land and in which he and his predecessor in title have been in possession for over 100 years. It has been time and again held by the Courts of law that the Government does not own Natham lands and it is a person in possession, who is the owner of the property. Therefore, the impugned order is *per se* erroneous. The first respondent has overlooked the defense in W.P.(MD) No.1537 of 2011 filed by the said Selvaraj.



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8. Therefore, the Writ Petition stands allowed and the impugned order of the first respondent passed in Moo.Mu.No. 26930/2016/D3 dated 16.04.2018 is set aside. The respondents are directed to issue patta to the petitioner in respect of the petition mentioned property within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

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

10.09.2024

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To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Aathur Taluk,
Aathur, Dindigul District.



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P.T.ASHA, J.

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