

**IN THE COURT OF THE DISTRICT MUNSIF,
ERANIEL.**

Present: **Thiru. M. Senthil Kumar, B.A.,B.L.,**

District Munsif, Eraniel.

Wednesday the 15th day of September 2021

E.P.No.9/2018

IN

O.S.No.173/2006

Mrs. Rajeswari

..... Petitioner / Decree Holder

Vs.

1. The State of Tamil Nadu,

Rep. by the District Collector,

Nagercoil.

2. The Tahsildar,

Kalkulam Taluk,

Padmanabhapuram.

..... Respondents / Judgment Debtors

Sri. Adv. Mr. P. Brightwin Xavier, For the Petitioner / Decree Holder

Sri. Adv. Government Pleader, For the Respondents / Judgment Debtors

This petition is coming before me for final hearing on 14.09.2021 and upon hearing the arguments on both side and having stood over for consideration till this day, this court delivered the following order :

ORDER

1. The execution petition is filed for enforcement of decree directing the judgment debtor District Collector, Kanyakumari to issue patta in the name of the decree holder in Re-Survey No.291/7 Old survey No.5864/B2 extend of 66 cents and as per records 57 cents. The state has been set-exparte in this execution proceeding on 20.03.2009 subsequent that a set a side application under Order 21 Rule 106 C.P.C. has been filed by the learned government pleader and it has been returned by the registry for curing defect. Meanwhile the government had preferred a 2nd appeal before the Hon'ble High Court of Judicature at Madras, Madurai Bench in C.M.P.(MD)No.8272/2019 in S.A.S.R. No.64014/2019.

2. The said C.M.P. has been dismissed by the Hon'ble High Court of Madras, Madurai Bench on 31.10.2019 refusing to condone the delay of 3379 days in filing the 2nd appeal on the grounds of substantial question of law under Section 100 of C.P.C. Now the decree holder presses for order of arrest of the judgment debtor namely the District Collector, Kanyakumari District. So as to enforce the decree for passing an order to issue patta in the name of the decree holder.

3. This court on perusing of the bundle found out that the set a side application has not been represented for further prosecution. At this juncture learned government pleader appear before this court along with the Tahsildhar, Kalkulam Taluk expressing their desire to settle the issue by getting appropriate approval from the commissioner of land administration Chennai.

4. This court is of the considered opinion in the interest of justice despite the government being set-exparte is inclined to provide opportunity by its inherent power under section 151 of CPC pursuant to the procedural formality in getting the patta transfer to name of the decree holder. In the above said circumstances the District Collector, Kanyakumari District is directed to appear before this court on 21.09.2021 by 10.30 A.M. to answer said material questions regarding the transfer of patta.

5. Call on 21.09.2021.

Dictated to the Steno-typist, transcribed by her, corrected and pronounced by me in open court this the 15th day of September 2021.

Sd/-
District Munsif ,
Eraniel.

Draft/Fair Order

E.P.No.9/2018

And

O.S.No.173/2006

D.M., Eraniel.

Dated 15.09.2021.