

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.16282 of 2015 and

M.P.No.1 of 2015

S.Palanivel

.. Petitioner

Versus

1.The Collector,
Namakkal,
Namakkal District.

2.The District Revenue Officer,
Namakkal,
Namakkal District.

3.The Revenue Divisional Officer,
Namakkal,
Namakkal District.

4.The Tahsildar,
Rasipuram Taluk,
Namakkal District.

5.The Secretary,
Kurukkupuram Milk Producers Society,
Andakalur Gate,
Kurukkupuram Village,
Rasipuram Taluk,
Namakkal District.

6.M.Manickam

7.N.Periyasamy

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Mandamus forbearing the respondents herein from putting up any kind of constructions or development of the property or assigning the property comprised in Survey No.22/7A of Kurakkapuram, Andagalur Gate Village, Rasipuram Taluk, Namakkal District measuring an extent of 47 cents to anybody, particularly to the respondents 5 to 7.

For Petitioner : Mr.N.Nithianandam

For RR1 to 4 : Mr.R.Vijayakumar, AGP

For R.5 : Mr.T.K.Ashok Kumar

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims to be in occupation of the land comprised in S.F.No.22/7A of Kurukkapuram Village to an extent of 47 cents. The said land is a Government poromboke land. Nearby the said land, the petitioner is having his own patta land which is an ancestral property. It is the claim of the petitioner that he and his predecessors in title, possessed and enjoyed not only the patta land but also the above said Government poromboke land and paid penalty to the Government.

3.The petitioner would further state that his father has filed a suit in O.S.No.507 of 1966 on the file of the learned District Munsif, Namakkal for permanent and mandatory injunction in respect of the property in question. The said suit was decreed on 13.07.1992 and the appeal preferred by the defendants therein in A.S.No.8 of 1973 was also ended in dismissal vide judgement dated 05.02.1974.

4.The grievance now expressed by the petitioner is that though the Government poromboke land in the above Survey No.22/7A is in possession of the predecessor in title as well as the petitioner, the respondents 6 and 7 had trespassed the land with the connivance of the fourth respondent.

5.Initially, the petitioner prays for patta in respect of the said Government poromboke land and since, it was rejected by the official respondents, the petitioner filed a writ petition in W.P.No.9608 of 2015 to quash the said order with the consequential relief of grant of patta. This Court vide order dated 01.04.2015, has granted liberty to the petitioner to prefer an appeal and accordingly, an appeal was preferred by the petitioner before the second respondent and the same is pending, and taking advantage of the same, the respondents 6 and 7 had started putting up construction over the said Government poromboke land and hence, prays for appropriate orders.

6.Heard the submissions of Mr.N.Nithianandam, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice for the respondents 1 to 4 and Mr.T.K.Ashok Kumar, learned counsel accepts notice for the fifth respondent.

7.A perusal of the decree passed in O.S.No.507 of 1966 and judgement in A.S.No.8 of 1973 would disclose that the Government has not been arrayed as party in the said proceedings. This Court while disposing of the writ petition in W.P.No.9608 of 2015, has observed that since, disputed questions of fact are involved granted liberty to the petitioner to prefer appeal and accordingly, an appeal was preferred by the petitioner and the same is pending on the file of the second respondent.

8.The petitioner has prayed for larger relief in this writ petition and this Court after going through the materials, is of the considered view that it would be suffice to direct the second respondent to consider and dispose of the petitioner's appeal petition dated 11.05.2015 within a stipulated time and it is also open for the petitioner to move an application for interim relief to the second respondent for appropriate orders.

9.In the result, the writ petition is disposed of and the second respondent is directed to dispose of the appeal petition filed by the petitioner dated 11.05.2015 in accordance with law after putting on notice the persons concerned and pass orders as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order and inform the decision taken, to the petitioner as well as the concerned persons and pendency of the appeal, the petitioner is at liberty to file an application for interim relief if he is so advised.

10.The writ petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (LA)

/true copy/

Sub Asst. Registrar

jbm

To

1.The Collector,
Namakkal,
Namakkal District.

2.The District Revenue Officer,
Namakkal,
Namakkal District.

3.The Revenue Divisional Officer,
Namakkal,
Namakkal District.

4.The Tahsildar,
Rasipuram Taluk,
Namakkal District.

5.The Secretary,
Kurukkupuram Milk Producers Society,
Andakalur Gate,
Kurukkupuram Village,
Rasipuram Taluk,
Namakkal District.

1 cc to Mr.N.Nithianandam, Advocte, Sr. 27891
1 cc to Mr.T.K.Ashok Kumar, Advocate, Sr. 27912
1 cc to Government Pleader, Sr. 28101

W.P.No.16282 of 2015

EV (CO)
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