

In the High Court of Judicature at Madras

Dated: 11.08.2015

Coram:

The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND
The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.19093 of 2015

Periasamy

.. Petitioner

vs.

1. The District Collector
Salem District.
Collectorate, Salem-636 001
2. The Tahsildar
Attur Taluk, Taluk Office,
Attur 636 102, Salem District
3. Periasamy
4. Dhanasekaran
5. Athiappan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Mandamus directing the first respondent to implement the proceedings of the second respondent dated 13 November 2009 made in Na.Ka.9008/2007/B3 by cancelling the assignment AM/5-1400/B1 dated 31 August 1990 and restore the Odai in S.No.138/1B1B, Thulukkanur Village to its original width of 10 metres.

For Petitioner : Mr.T. Murugamanickam
For Respondents : Mr.P.S.Sivashamughasundaram
Spl. Govt. Pleader for RR1 and 2
No appearance for RR4 and 5

ORDER

(Order of the Court was made by K.K.SASIDHARAN, J)

The petitioner seeks a direction to the respondents 1 and 2 to implement the proceedings dated 13 November 2009 on the file of Tahsildar, Attur Taluk by cancelling the order of assignment dated 31 August 1990 and restore the odai in Survey No.138/1B1B of Thulukkanur Village to its original position.

2. According to the petitioner, Tmt.Chellammal owning patta lands in Survey No.138/1B1B, adjacent to the Government Poramboke lands, encroached upon the supply channel and reclaimed it and annexed with her patta lands. This has resulted in the reduction of the width of the water channel besides blockage of the flow of water. The local people objected and the same resulted in passing an order by the second respondent cancelling the assignment given to Tmt. Chellammal by proceedings dated 31 August 1990. However, follow up action was not taken to restore the Odai to its original position. The petitioner is therefore before this Court.

3. The Tahsildar, Attur, filed an affidavit dated 31 July 2015 indicating that a decision would be taken immediately after issuing notice to the respondents 3 to 5.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of respondents 1 and 2.

5. The petitioner now wanted immediate action to be taken by the Tahsildar to implement the proceedings dated 13 November 2009. The Tahsildar, Attur in his affidavit dated 31 July 2015 indicated the measures to be taken in the matter.

6. Paragraph 10 of the counter reads thus:

"It is humbly submitted that after giving due notice to the respondents 3 to 5 and the writ petitioner, the Tahsildar would take final decision based on the present status position and report the same to the first respondent, who is the competent authority to pass final orders in the issue herein."

7. The second respondent is directed to issue notice to the respondents 3 to 5 and pass orders taking into account the earlier proceedings dated 13 November 2009. It is the duty of respondents 1 and 2 to implement the decision taken with notice to respondents 3 to 5. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

8. The writ petition is disposed of with the above direction. No costs.

Sd/-
Asst.Registrar(CSV)

/true copy/

Sub Asst. Registrar

To

1. The District Collector
Salem District,
Collectorate Office,
Salem -636 001

2. The Tahsildar
Attur Taluk,
Taluk Office,
Attur-636 102, Salem District

+1 cc to Mr.T.Murugamanickam, Advocate sr.41804
+1 cc to Government Pleader, High Court, Madras
sr 41902

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