

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.2405 of 2015

and

M.P.No.1 of 2015

P.O.Devasia

... Petitioner

vs.

1. The District Collector,
Nilgiris at Udhagamandalam,
Ooty.
 2. The Revenue Inspector,
Cherambadi,
Cherampadi Post,
Pandalur Taluk,
The Nilgiris.
 3. The Tahsildar,
Pandalur Taluk,
Pandalur, The Nilgiris.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession, occupation and enjoyment of the subject matter of the property comprised in Survey Nos.457/4 and 457/5 of Erumad village, Pandalur Taluk, Nilgiris District measuring an extent of 0.65 hectares of agricultural land together with a residential house constructed in the said lands except by due process of law.

For Petitioner : Mr.K.A.Ramakrishnan

For Respondents : Mr.R.Viajayakumar
Addl. Government Pleader

ORDER

Heard Mr.K.A.Ramakrishnan, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

2. The petitioner seeks the following relief:-

"For the reasons stated in the accompanying affidavit, it is prayed that this Honourable Court may be pleased to issue a Writ of Mandamus forbearing the respondents from

interfering with the petitioner's peaceful possession, occupation and enjoyment of the subject matter of the property comprised in Survey Nos.457/4 and 457/5 of Erumad village, Pandalur Taluk, Nilgiris District measuring an extent of 0.65 hectares of agricultural land together with a residential house constructed in the said lands except by due process of law and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

3. According to the petitioner, he was in occupation of the land comprised in S.Nos.457/4 and 457/5 of Erumad village, Pandalur taluk, Nilgiris District measuring an extent of 0.65 hectares and carrying agricultural activities. The petitioner requested the 1st respondent for grant of assignment of the said lands and since the assignment was not considered, the petitioner moved before this Court by filing W.P.No.4062 of 2012 and this Court by order dated 21.2.2012 directed the 1st respondent therein to consider the said request. Pursuant thereto, the 1st respondent, by order dated 26.8.2012, rejected petitioner's request for grant of assignment on the ground that there is a ban order issued by the Government in G.O.Ms.No.1168, Revenue Department, dated 25.7.1989 and due to the said ban, no assignment could be granted in respect of cultivable lands.

4. In the order impugned, it has been observed that the petitioner's request for assignment of the entire extent has been rejected, however, the petitioner is informed that the encroachment made by way of house is being considered under one time regularisations scheme for issue of patta. In this regard, the Tahsildar, Pandalur was directed to submit necessary proposal. According to the petitioner, though the Tahsildar, Pandalur has complied with the direction issued by the District Collector, The Nilgiris, but is threatening to evict the petitioner from his house by demolishing the house.

5. In the light of the said direction issued by the District Collector, The Nilgiris, the petitioner cannot be thrown out from his house and the Tahsildar, Pandalur is directed to submit necessary proposal for regularisation of the house site encroached by the petitioner as per the existing rules, subject to the conditions as ordered by the District Collector, The Nilgiris in his Proceedings dated 26.8.2012 and such proposal shall be submitted to the District Collector, The Nilgiris, within a period of four weeks from the date of receipt of a copy of this order and on receipt of the proposal from the Tahsildar, Pandalur, it is open to the District Collector, The Nilgiris to consider the same in accordance with law, within a period of four weeks thereafter. Till such orders are passed by the 1st respondent, the petitioner's encroachment by way of constructing the house alone shall not be interfered.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, M.P.No.1 of 2015 is closed.

Bbr

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Nilgiris at Udhagamandalam,
Ooty.
2. The Revenue Inspector,
Cherambadi,
Cherampadi Post,
Pandalur Taluk,
The Nilgiris.
3. The Tahsildar,
Pandalur Taluk,
Pandalur, The Nilgiris.

+1 C.C. To Government Pleader (Sr.No.5962)

+1 C.C. To MR.K.A.Ramakrishnan (Sr.NO.5759)

सत्यमेव जयते

W.P.No.2405 of 2015

GJ(CO)
sd 23/02/2015

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