

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.28790 of 2014

C.Dhamaraiselvi

... Petitioner

Vs.

1. The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai,
2. The District Collector,
Vellore District,
Vellore,
3. The Tahsildar,
Vellore Taluk,
Vellore District,
4. The Commandant,
Station Headquarters,
Fort St.George,
Chennai - 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the respondents to issue patta to the petitioner for the land to an extent of 2.75 acres situated in Survey No.765/2, Ariyur village, Vellore Taluk, Vellore District which was assigned to petitioner's father late T.G.Ganapathy by the 3rd respondent vide R.C.No.6145/65 dated 5.10.1966 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.S.Pattabiraman, Govt. Advocate
for RR.1 to 3
Mr.J.madanagopal Rao, SCGSC for R.4

ORDER

The petitioner's father worked in Indian Army, he was unfortunate and in the war with China, he was said to be captured by the Chinese army and was lodged in the Chinese prison. He sustained gunshot wound. He was discharged on 18.6.1964. He lost four fingers in his left hand and 3 fingers in the right hand apart from knee amputation to his left leg.

2. Taking into consideration of the above said facts, the 3rd respondent in R.C.No.6145/65 dated 5.10.1966 permitted the petitioner's father to occupy the land to an extent of 2.75 acres in S.No.765/2 in Ariyur village in Vellore Taluk. Though the petitioner's father and the petitioner have been moving from pillar to post for assignment of the land in pursuant to the possession handed over, no steps have been taken by the respondents. Hence, present the writ petition has been filed.

3. In the counter affidavit filed by the 3rd respondent, the only objection raised is S.No.765/2 of Ariyur village has been classified as a water course poramboke.

4. Learned counsel appearing for the petitioner submitted that the above said land in S.No.765/2 is surrounded by other lands, which are used for all other purposes other than as a water course. At the time of passing order on 5.10.1966, it was duly passed after receiving opinion from the Executive Engineer, Public Works Department. Learned counsel appearing for the petitioner submitted that as the facts are not in dispute, appropriate orders will have to be passed.

5. It is not dispute about the services rendered by the petitioner's father and the agony suffered by him. A decision was made on 5.10.1966 based upon relevant materials. Merely because the classification is there as water course, there cannot be any absolute bar for assignment. It is to be seen that the petitioner's family has been in possession from 1966 onwards. Thus, atleast from that year onwards, the land has not been used as a water course or channel.

6. Considering the above, this Court directs the 2nd respondent to pass appropriate orders on the request made by the petitioner for assignment of the land in S.No.765/2 for an extent of 2.75 acres in Ariyur village, Vellore District within a period of eight weeks from the date of receipt of copy of this order. The petitioner is also at liberty to give another representation within a period of two weeks

from the date of receipt of copy of this order by enclosing a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai,
2. The District Collector,
Vellore District,
Vellore,
3. The Tahsildar,
Vellore Taluk,
Vellore District,
4. The Commandant,
Station Headquarters,
Fort St.George,
Chennai - 600 009.

+5cc's to Mr.K.Mahendran, Advocate, S.R.No.49092
+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.48858
+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.48516
+1cc to the Government Pleader, S.R.No.48619

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PA(CO)
CA(10/09/2015)

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