

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-03-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WRIT PETITION No.7710 of 2015

M. Ravikumar

.. Petitioner

vs

1. The District Collector,
Thiruvallur District.
2. The Revenue Divisional Officer,
Ponneri,
Thiruvallur District.
3. The District Educational Officer,
Thiruvallur District.
4. The Tahsildar,
Gummidipoondi Taluk,
Thiruvallur District.
5. The Block Development Officer,
Ponneri, Block,
Gummidipoondi,
Thiruvallur District.
6. The Panchayat Councilor,
Samaputhur Village, Panchayat,
Gummidipoondi Taluk,
Thiruvallur District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records in pursuant to the impugned orders passed by the 1st Respondent proceedings in Na.Ka.No. 6237/2014/Aa2 dated 05.01.2015 and quash the same, consequently direct the Respondents to make a fresh enquiry and issue patta in favour of the Petitioner in respect of land in S.No.215/3 Agriculture Poramboke land to an extent of 2 acres situated at Samaputhur Village, Gummidipoondi, Thiruvallur District within a stipulated period of time.

For Petitioner : Mr. T.Suresh
For Respondents : Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader - R1 to R4

ORDER

(Order of the Court was made by M. VENUGOPAL, J.)

The petitioner has filed the present writ petition praying to call for the records pertaining to the impugned order passed by the first respondent in reference No. Na.Ka.No.6237/2014/Aa2, dated 05.01.2015 and to quash the same. Further he has sought for passing of the order directing the respondents to make a fresh enquiry and issue patta in his favour in respect of the the land in S.No. 215/3 Agriculture poramboke land measuring an extent of two acres situated at Samaputhur Village, Gummidipoondi, Thiruvallur District, within a stipulated period of time.

2. According to the petitioner, the impugned order dated 05.1.2015 passed by the first respondent is an invalid and illegal because of the reason that the same was passed in a mechanical fashion without an application of mind.

3. The Learned counsel for the petitioner urges before this Court that the respondents 1 and 2 had failed to note that there is 100 years old 'Dharmaraja Temple' situated in S.No.215/3. That apart, the petitioner had purchased the land in S.No.215/3 from the 6th respondent Panchayat and that he is not having any other land and it is the only livelihood of his family. Moreover, the 'chitta adangal' shows the ownership and by not considering these aspects and also not issuing prior notice or awarding compensation, the impugned order dated 05.1.2015 was passed by the First Respondent.

4. It comes to be known that the Sub Divisional Magistrate -cum- Revenue Divisional Officer, Ponneri, in his proceedings in Rc.7376/2012/A3.MC13/2012, dated 17.7.2013 under Section 145 of Cr.P.C., had among other things stated that since this land is coming under the category of poramboke land belonging to the Government, no one has right in it, however, till the case filed by Mrs.Muniyammal is decided. It is ordered that no one should trespass into the land or claim right or should interfere in any manner into the land.

5. That apart, the Sub Divisional Magistrate -cum- Revenue Divisional Officer, Ponneri, in the aforesaid proceedings dated 17.7.2013 had categorically stated that the land comprised in S.No. 215/3 is coming under the category 'Thoppu' and this land is to be under the control of the panchayat and considering the fact that no one should encroach upon the said land, the Gummidipoondi Tahsildar was informed to remove the encroachment from the said land and that the said encroachment was removed.

6. At this stage, this Court pertinently points out that the impugned order of the first respondent/ District Collector in Na.Ka.No.6237/2014/A2, dated 05.1.2015, unerringly points out that it was ordered to transfer the land comprised in Survey No.215/3 coming under the Thoppu (grove) Poramboke category measuring 1.20.0 hectares situated in Sanaputhur Village, Gummidipoondi Taluk, Thiruvallur District, as per the revenue State No.23 (u) without the cost subject to the conditions below :-

(i) The stone fees, Sub division fees and other fees have to be collected from the above requested department.

(ii) The concerned department shall use the land for which purpose is transferred only.

(iii) If the demanding department is leaving the land under transfer for a long period unused in full or part of the land, then it should be returned to the revenue department.

(iv) Any conditions imposed by the Government in future shall be followed by the Demanding Department.

(v) Immediately after the withdrawal notification has been published in the Gazette, this land will be removed from the local administration.

7. Moreover, based on the report of the Revenue Divisional Officer, Ponneri, dated 13.11.2014 and based on the field survey by the District Revenue Officer, Thiruvallur, the above said land was ordered to be transferred to the School Education Department for the formation of Government primary school.

8. On going through the impugned order dated 05.1.2015 passed by the first respondent/ District Collector, Thiruvallur District, this Court is of the considered view that the said order of transferring the land comprised in S.No. 215/3 measuring an extent of 1.20.0 Hectare or 2.96 acre in No.07, Sanaputhur Village, Gummidipoondi Taluk, Thiruvallur District to the School Education Department for the formation of Government primary school does not suffer from any material irregularity or patent illegality in the eye of law. Viewed in that perspective, the writ petition is devoid of merits.

9. In the result, this writ petition is dismissed leaving the parties to bear their own costs. Consequently, M.P.Nos. 1 and 2 of 2015 are closed. It is made clear that the dismissal of the present writ petition by this Court will not preclude the concerned parties to seek appropriate remedy in O.S.No. 40 of 2013 pending on the file of the District Munsif Court, Ponneri, in the manner known to law and in accordance with law.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The District Collector,
Thiruvallur District.

2. The Revenue Divisional Officer,
Ponneri,
Thiruvallur District.

3. The District Educational Officer,
Thiruvallur District.

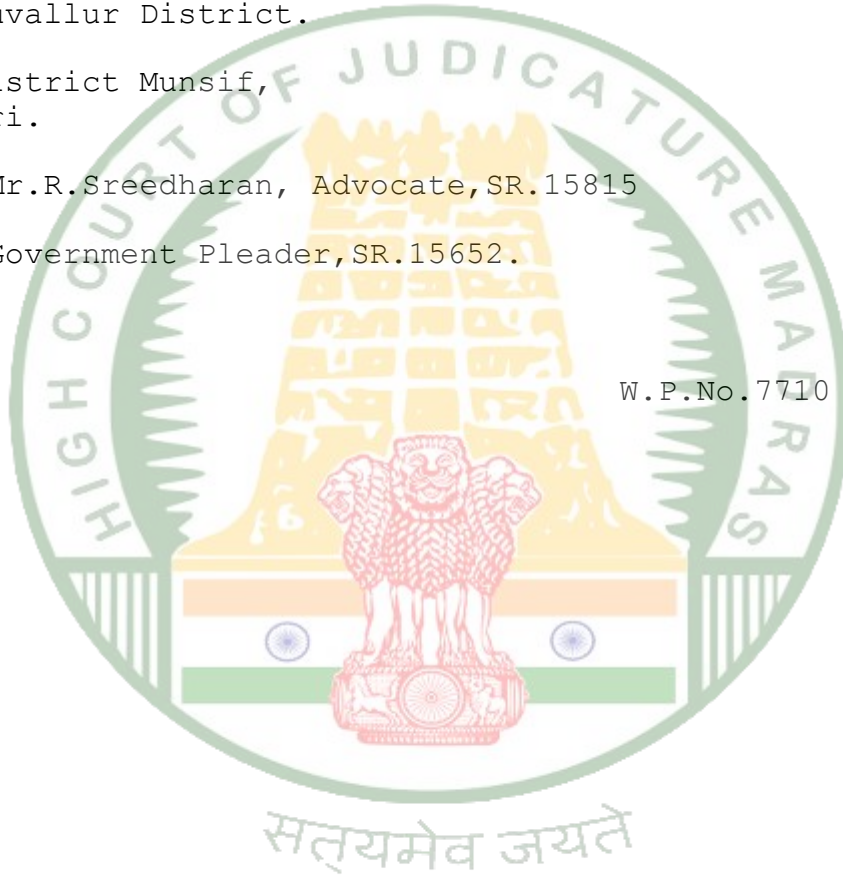
4. The Tahsildar,
Gummidipoondi Taluk,
Thiruvallur District.
5. The Block Development Officer,
Ponneri, Block,
Gummidipoondi,
Thiruvallur District.
6. The Panchayat Councilor,
Samaputhur Village, Panchayat,
Gummidipoondi Taluk,
Thiruvallur District.
7. The District Munsif,
Ponneri.

+1 cc to Mr.R.Sreedharan, Advocate, SR.15815

+1 cc to Government Pleader, SR.15652.

rsy(co)
krd 6/4

W.P.No.7710 of 2015



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