

In the High Court of Judicature at Madras

Dated: 15-09-2015

Coram:

The Hon'ble Mr. Justice M. Jaichandren

W.P. No.23034 of 2012 and
M.P.No.1 of 2012

K.Kappal Munuswamy

.. Petitioner.

Vs

1. The District Collector
District Collector Office,
Salem.

2. The Special Tahsildar,
Adi Dravidar and Tribal Welfare Department
Collector Office Compound,
Salem.

3. The District Officer,
Adi Dravidar and Tribal Welfare Department,
Collector Office Compound,
Salem.

4. M.Muthu

.. Respondents.

Prayer: Writ Petition is filed to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from interfering or dispossessing the writ petitioner from the property situate in Survey No.35/2A at Masinaickenpatti Village, Vazhapadi Division, Ayodhyapattinam Sub-Division, Salem District, without following the process of law.

For petitioner : Mr.M.L.Ramesh

For respondents : Mr.R.Ravichandran (R1 to R3)
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner, as well as the learned counsel appearing on behalf of the respondents.

2. This Writ Petition has been filed praying that this court may be pleased to issue a Writ of Mandamus forbearing the respondents 2 to 4 from interfering or dispossessing the petitioner from the

property situate in Survey No.35/2A, Masinaickenpatti Village, Vazhapadi Division, Salem.

3. The claim of the petitioner is that the property in question, situate in Survey No.35/2A, Masinaickenpatti Village, Vazhapadi Division, Salem, had been purchased by him from one Palazhani Ammal, during the year, 1999, by way of a registered sale deed, dated 20.8.1999, registered as Document No.2030 of 1999. However, the fourth respondent had given a complaint that the petitioner had encroached upon the property in question, which is said to have been acquired by the state government. Based on the complaint preferred by the fourth respondent, the second respondent had issued proceedings, dated 23.6.2010, asking the petitioner to vacate the land in question. In such circumstances, the petitioner had preferred a Writ Petition before this court, in W.P.No.20849 of 2010. This Court, by its order, dated 13.9.2010, had directed the second respondent to pass appropriate orders, based on the enquiry conducted on 2.7.2010, within a period of six weeks from the date of receipt of a copy of this order, after giving an opportunity of hearing to the parties concerned. In spite of the said order the second respondent had not passed orders, based on the enquiry, dated 2.7.2010, till date. Hence, the petitioner has preferred the present Writ Petition before this court.

4. The learned counsel appearing on behalf of the respondents 1 to 3 has submitted that the land in question had been acquired by the state government, under a housing scheme meant to provide house site for persons belonging to the Arundathiyar community. The said land had been taken by the state government following all the necessary procedures. The petitioner had purchased the land in question after the award enquiry had been completed. Therefore the petitioner has no right to claim any interest in the property in question.

5. In reply, the learned counsel appearing on behalf of the petitioner had submitted that the land which is in the possession of the petitioner had not been acquired by the state government. Therefore, this court had passed an order, on 13.9.2010, directing the second respondent to pass an appropriate order, based on the enquiry conducted on 2.7.2010, after giving an opportunity of hearing to the parties concerned. However, as the second respondent had not passed an order, as directed by this court, by its order, dated 13.9.2010, made in W.P.No.20849 of 2010, he has been constrained to come before this court, by way of filing the present writ petition.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that certain issues had been raised disputing the ownership of the property situate in Survey No.35/2A, Masinaickenpatti Village, Vazhapadi Division, Salem. However, this

court had passed an order, on 13.9.2010, in W.P.No.20849 of 2010, directing the second respondent to pass appropriate orders, based on the enquiry conducted on 2.7.2010, after giving an opportunity of hearing to the parties concerned. Since, no order had been passed by the second respondent, as directed by this court, by its order, dated 13.9.2010, this court finds it appropriate to direct the second respondent to pass an order regarding the issues raised by the petitioner in the present Writ Petition, after giving an opportunity of hearing to the parties concerned, including the petitioner and the fourth respondent herein. The petitioner is to appear before the second respondent, on 15.10.2015, to enable the second respondent to conduct an enquiry, if no order had been passed by the second respondent, till date. However, if the second respondent finds that there are issues relating to the property in question which are in dispute, he may observe that it would be open to the parties concerned to approach the appropriate civil forum to seek the remedies, if any. The Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

csh

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3. The District Officer,
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Collector Office Compound,
Salem.

+1 cc to Mr.M.L.Ramesh,Advocate(sr.50361)
+1 cc to GovernmentPleader (sr.50511)

W.P. No.23034 of 2012

GJ(co)
cp 07/10/2015