

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.10578 of 2016
and
W.M.P.No.9275 of 2016

1. Chinnapayan
2. Arumugham
3. Nagammal
4. Palanisamy

...Petitioners

vs.

1. District Collector
Salem.
2. The Tahsildar
Omalur.
3. Village Administrative Officer
Thombipadi Village
Mallusetipatti.
4. Chief Surveyor
Tahsildar Office, Omalur.
5. S.Rajendran

...Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing respondents 1 and 2 herein to dispose of the representation of the petitioners dated 17.05.2012 in accordance with law and within the time frame that may be fixed by this Court.

For Petitioner : Mr.G.Surya Narayanan

For Respondents : Mr.R.Ravichandran
AGP for RR1 to 4
Mr.M.Balasubramanian for R5

ORDER

Heard the learned counsels appearing on behalf of the petitioners, as well as the respondents.

2. This writ petition has been filed praying that this Court may be pleased to issue a WRIT OF MANDAMUS, to direct the first and the second respondents to dispose of the representation of the petitioners, dated 17.05.2012, in accordance with law, within a time frame, as may be fixed by this Court.

3. The main contention of the learned counsel appearing on behalf of the petitioners is that the patta, bearing No.640, which stood in the name of the petitioners, relating to Survey Nos.33/8C and 36/4, Thumbipadi Village, Omalur Taluk, Salem District, had been cancelled by the Tahsildar, Omalur, the second respondent herein, without issuing any notice to the petitioners. Thereafter, the patta relating to the said lands had been wrongly issued in the names of Vadivel, Chinnapayyan, Sons of Narayana Gounder and Govindammal, Wife of Poosari. Subsequently, the land in question had been sold to the fifth respondent, based on the said patta. In such circumstances, the petitioners had approached this Court, praying for a direction to direct the first and the second respondents, to dispose of their representation, dated 17.05.2012.

4. The learned counsel appearing on behalf of the fifth respondent had stated that he is the lawful owner of the property in question. He had purchased the said property, by way of a registered sale deed, dated 18.05.2012, from Vadivelu, Chinnapayyan and Govindammal and their legal representatives. He had further submitted that the fifth respondent had filed a suit, in O.S.No.245 of 2012, on the file of the District Munsif Court, Omalur and an order of interim injunction had also been granted by the said Court, in favour of the fifth respondent herein, in I.A.No.638 of 2012. The said order of interim injunction had also been made absolute. Thereafter, an order had been obtained by the fifth respondent, from this Court, on 06.07.2015, in W.P.No.19747 of 2015, for the grant of police protection, for the surveying of the land in question. He had further submitted that a contempt petition had also been filed against the fourth petitioner, namely, Palanisamy, as he had prevented the authorities from surveying the land in question, pursuant to the orders passed by this Court. In such circumstances, there is no need for this Court to direct the first respondent to consider the representation of the petitioner, dated 17.05.2012, submitted to the District Collector, Salem District, which had been forwarded to the second respondent.

5. The learned counsel appearing on behalf of the petitioners had submitted that the petitioners have no alternative remedy since the second respondent had cancelled the patta, which stood in the name of the petitioners, in relation to the land in question, without giving them an opportunity of hearing. No copy of the order cancelling the patta had been served on the petitioners, till date. In such circumstances, the petitioner had made a representation to the District Collector, Salem District, the first respondent herein, on 17.05.2012. The first respondent had forwarded the said representation to the second respondent and had directed him to dispose of the said representation, after giving an opportunity of hearing to the parties concerned. However, even though the communication of the first respondent, dated 29.05.2012, directing the second respondent to dispose of the representation of the petitioner, dated 17.05.2012, had been received by the second respondent, on 31.05.2012, the second respondent had failed to consider the representation of the petitioners, dated 17.05.2012, and no orders had been passed on the said representation, till date. In such circumstances, the learned counsel for the petitioner had prayed that this Court may be pleased to direct the second respondent to dispose the representation of the petitioners, dated 17.05.2012, on merits and in accordance with law, within a specified time limit, as may be fixed by this Court.

6. At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the respondents 1 to 4 had submitted that the second respondent shall consider the representation of the petitioners, dated 17.05.2012, and pass appropriate orders thereon, on merits and in accordance with law, as may be directed by this Court.

7. On considering the submissions made by the learned counsels appearing on behalf of the petitioners, as well as the respondents, and on a perusal of the records available, this Court finds it appropriate to direct the second respondent to dispose of the representation of the petitioner, dated 17.05.2012, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after giving an opportunity of hearing to the petitioners, the fifth respondent and the other persons concerned, if any. The petitioners shall furnish a copy of their representation, dated 17.05.2012, to the second respondent along with a copy of this order. However, it is made clear that this Court, by this order, has not expressed any opinion on the merits of the matter.

8. The writ petition is disposed of, with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The District Collector
Salem.
2. The Tahsildar
Omalur.
3. The Village Administrative Officer
Thombipadi Village
Mallusetipatti.
4. The Chief Surveyor
Tahsildar Office, Omalur.

+1cc to Mr.M.Balasubramanian, Advocate, S.R.No. 36828

+1cc to the Government Pleader, S.R.No. 37523

W.P.No.10578 of 2016

MSM(CO)
PSI (23/07/2016)

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