

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.11065 of 2016

A.Abdul Latif

.. Petitioner

Vs.

1. State of Tamil Nadu,
represented by District Collector,
Nagapattinam.
2. District Collector, Nagapattinam.
3. Tahsildar, Nagapattinam.
4. Revenue Divisional Officer, Nagapattinam. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the third respondent herein to mutate the patta according to the petitioner's representation made on 24.05.2012.

For Petitioner : Mr.Srinath Sridevan

For Respondents : Mrs.P.Rajalakshmi, Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the third respondent herein to mutate the patta according to the petitioner's representation made on 24.05.2012.

2. It is averred by the petitioner in the affidavit filed in support of the Writ Petition that his father Hasan Kani acquired the property comprised in R.Sy.No.230, Old Sy.No.220, ad-measuring 2 acres and 7 cents, vide sale deed, dated 18.05.1948 from one Rabiathammal and his father gifted the said property to the petitioner, vide oral Hibba; since then, the petitioner has been in possession and enjoyment of the same. It is further stated by the petitioner that no other legal heir of the petitioner's father objected the said oral Hibba, bestowing the property on the petitioner. It is the case of the petitioner that he applied for permission to set up a Mill from the Village Administrative Officer, which was denied on the ground that the

land is classified as 'poramboke'; thereafter, the petitioner issued notice to the respondents under the Right to Information Act, seeking for the nature of the said property, for which, no explanation has been provided for by the respondents. It is the grievance of the petitioner that the said property has been wrongly classified as poramboke land.

3. In the above backdrop, the petitioner filed a civil suit in O.S.No.3 of 2007 before the Sub-Court, Nagapattinam, for declaration of title, in which, the petitioner proved his ownership of the property from the year 1909; subsequently, by judgment and decree, dated 22.11.2007 in the said suit, the petitioner was declared as the absolute owner of the property, against which, no appeal is filed by the respondents, as a result of which, the said decree has become final.

4. Thereafter, the petitioner requested the third respondent to conduct a field survey of the property and mark the boundaries, for which, the third respondent replied in letter dated 22.08.2008 that a field survey can be conducted only when the patta reflects the name of the present owner. Hence, the petitioner made an application, dated 11.11.2008 to the third respondent for mutation of patta in his name, for which, no steps have been taken, as a result of which, trespassers are encroaching upon the petitioner's property. Aggrieved by the said act, the petitioner issued legal notice, dated 16.02.2009 to the third respondent for expediting the process of issuance of patta in his favour. There was no response for over two years. Hence, the petitioner issued another legal notice, dated 01.06.2011 under Section 80 of the Civil Procedure Code to the respondents, requesting them to expedite the process of issuance of patta within two months. Though the subsequent notice has been acknowledged, no action is taken. Thereafter, the petitioner again issued legal notice, dated 10.10.2011, to the Village Administrative Officer, by bringing to their notice that they had not complied with the judgment and decree, dated 22.11.2007 passed by Sub-Court, Nagapattinam, in O.S.No.3 of 2007.

5. Thereupon, the petitioner submitted a representation, dated 24.05.2012 to the second and third respondents, requesting the second respondent to give appropriate direction to the third respondent to consider the petitioner's earlier representations and thereby, mutate the patta in his name and also to conduct field survey and mark the boundaries thereto. This representation was duly served on the respondents. In spite of the same, since no action is taken, the petitioner made a representation, dated 14.11.2012 to the Principal Secretary and Commissioner of Land Survey and Tax Department, ventilating his grievance and to issue direction to the respondents to consider the petitioner's request made in the earlier representation(s)

and for mutation of the patta in his name. After three years, the fourth respondent issued summons, dated 07.01.2015 in No.6250/2013/A4, requesting the petitioner to appear on 16.02.2015 for enquiry with necessary title documents, for which, the petitioner appeared on 16.02.2015 and submitted his case with necessary documents. Even thereafter, since no action is taken by the respondents, inspite of delay of six years, causing hardship to the petitioner, he has filed this Writ Petition for the above relief.

6. Heard both sides.

7. Considering the above facts and circumstances of the case and without going into the merits or otherwise of the case, this Court directs the petitioner to submit a copy of the said representation, dated 24.05.2012 to the third respondent, with all necessary documents, within a period of one week from the date of receipt of a copy of this order, along with a copy of this order, and on receipt of such representation, the third respondent is directed to consider the said representation of the petitioner, conduct enquiry and give an opportunity of personal hearing to the petitioner and other necessary parties and thereafter pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of twelve weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the third respondent to decide the same.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.
cs

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Copy to

1. District Collector, Nagapattinam.

2. Tahsildar, Nagapattinam.

3. Revenue Divisional Officer, Nagapattinam.

+ 1 cc to Mr.Srinath Sridevan, Advocate, SR 19123

+ 1 cc to Govt.Pleader, High Court, Madras SR 18996

skv(co)

prk18/4

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