

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.13233 of 2016

M. Devanathan

... Petitioner

Vs.

The Tahsildar,
Egmore - Nungambakkam Taluk Office,
Chennai.

.. Respondent

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondent to dispose the representation of petitioner dated 30.06.2015 relating to issue of patta for the petitioner's land situated at Egmore, Nungambakkam Taluk, Nungambakkam Village, R.S.No.467, Plot No.8-A, bearing Door No.103, (Old No.13), Tank Bund Road, Nungambakkam, measuring about 1026 sq.ft., within a specified and reasonable time as may be determined by this Court.

For Petitioner : Mr.B.Divakaran
For Respondents : Mr.V.S.Ramesh,
Govt. Advocate

ORDER

The petitioner has come forward with this petition seeking for a mandamus upon the respondent to dispose of the representation of the petitioner dated 30.06.2015 for issuance of patta for the petitioner's land situate at Egmore, Nungambakkam Taluk, Nungambakkam Village, R.S.No.467, Plot No.8-A, bearing Door No.103, (Old no.13), Tank Bund Road, Nungambakkam, measuring about 1026 Sq.ft., within a specified and reasonable time may be determined by this Court.

2. Heard Mr.B.Divakaran, learned counsel appearing for petitioner and Mr.V.S.Ramesh, learned Government Advocate who took notice for respondent.

3. According to the petitioner, his father viz., Murugesha Naicker is the original owner of the property situate at Plot No.8-A, Door No.103 (Old No.13), Tank Bund Road, Nungambakkam, comprised in R.S.No.467, measuring about 1026 sq.ft., and he

was in absolute possession and enjoyment of the same till his life time. Whiles, the petitioner's father died on 18.10.1990, leaving behind his legal heirs, including his 2nd wife, petitioner and his brothers and sister and his son born through his first wife. As dispute arose between the legal heirs of the said Murugesu Naicker in respect of a Will executed by him regarding sharing of properties, a suit in O.S.No.234 of 1998 was filed and the same was decreed on 29.1.2004. Aggrieved against the same, the defendant in O.S.No.234 of 1998 filed an appeal in A.S.No.103 of 2004 before the learned Principal District Judge, Chenglepet and the same was dismissed by the First appellate Court confirming the judgment passed by the trial Court. Against the said decree made in A.S.No.103 of 2004, the defendant therein filed second appeal before this Court in S.A.No.506 of 2008. Pending second appeal, as the matter was compromised between the parties, a compromise memo was filed and after recording the joint memo of compromise, this Court allowed the said compromise entered into between the parties and had given a judgment and decree on 1.4.2015. As per the said joint memo of compromise, the property situate at Egmore, Nungambakkam Taluk, Nungambakkam Village, R.S.No.467, Plot No.8-A bearing Door No.103(Old no.13), Tank Bund Road, Nungambakkam, measuring 1026 sq.ft., came to the possession of the petitioner herein along with his brother and sisters and from that date onwards, they were in joint and common possession and enjoyment of the above said property.

4. It is the case of the petitioner that the petitioner had applied before the respondent/Tahsildar, Egmore, Nungambakkam Taluk Office for grant of patta in their favour, but inspite of repeated and continuous demands, no action has been taken till date for granting patta in favour of them. Hence he made a representation to the respondent on 30.06.2015 requesting for issuance of patta in favour of petitioner and his brothers and sister. But the same is kept pending without initiating any action. Therefore the petitioner has filed the present Writ Petition.

5. Learned counsel for the petitioner submitted that though this writ petition has been filed seeking for a larger relief, it would suffice if the representation of the petitioner dated 30.06.2015 would be considered and necessary orders be passed by the respondent within a time limit that may be fixed by this court.

6. Though very many issues have been raised in this writ petition, the prayer now sought for by the learned counsel for the petitioner is only to dispose of the representation made by the petitioner dated 30.06.2015.

7. In view of the submissions of learned counsel for petitioner, this Court, in the interest of justice, without going into the merits of the case, directs the respondent to consider the representation of the petitioner dated 30.06.2015 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as to other interested parties, if necessary, within a period of twelve weeks from the date of receipt of a copy of this order.

8. It is made clear that this court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is upon the respondent to consider and pass orders on the representation of the petitioner purely on merits.

9. With the above direction, this Writ petition is disposed of. No costs.
msr

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

The Tahsildar,
Egmore - Nungambakkam Taluk Office,
Chennai.

+ 1 cc to Mr.B.Divakaran, Advocate SR 13233

+ 1 cc to Govt.Pleader SR 22493

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