

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.15342 of 2016

Mr. A. Gurusamy

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Villupuram,
Villupuram District.
2. The Sub Collector,
Dindivanam,
Villupuram District.
3. K. Ranganathan ... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to comply the direction as per Memo dated 3.3.2016 bearing No.O.Mu.Aa.7/1205/2016 issued by the first respondent.

For Petitioner : Mr.M. Jaikumar

For Respondents : Mrs.M.E.Raniselvam
Addl. Govt. Pleader (R1 & R2)

O R D E R

The petitioner has come forward with this Writ Petition seeking for issuance of Mandamus upon the second respondent to comply the direction as per Memo dated 3.3.2016 bearing No.O.Mu.Aa.7/1205/2016 issued by the first respondent.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the 1st and 2nd respondents.

3. According to the petitioner, the petitioner's mother Late Mariammal has purchased a property comprised in S.No.401/10, measuring total extent of 1.03 acres and in S.No.401/9, measuring total extent of 0.93, altogether 1.96 acres from one Mr.Amirthan

in the year 1938, by a registered sale deed. Ever since her date of purchase, she was in absolute possession and enjoyment of the property and she was issued with a Patta Pass book dated 10.7.1974 bearing Patta No.576 and since then, petitioner's mother and her legal heirs have continuously paid the tax for the above said property.

4. In the year 1959, petitioner's mother settled an extent of 40 cents in favour of her daughter Mrs. Dhanammal and the balance extent of 1.56 cents, which comprised in Survey Nos.401/10 and 401/9 was partitioned amongst the legal heirs of Mariammal viz., (1) Mr. Sudesan, 2. Mr.Gurusamy, 3. the petitioner herein, 4. Mr.Poun and 5. Mr.Manickam and each of them were given 39 cents of land as their share.

5. Whiles, the 3rd respondent claiming that he purchased the property from one Gurusamy, who is one of the legal heirs of said Mariammal and obtained patta in No.1527 through document bearing No.687 of 2002 and the said Gurusamy was issued with patta No.288. The petitioner sent a representation on 7.1.2016 to the first respondent to cancel the above said patta bearing No.288 and patta No.1527 along with entire set of documents to cancel the above said patta issued in favour of the 3rd respondent.

6. In response, the first respondent, by a Memo dated 3.3.2016 bearing No.O.Mu.Aa7/1205/2016, directed the 2nd respondent to enquire the petition given by the petitioner and to take necessary action in respect of cancellation of patta and in the said memo, he further directed the second respondent to send an action taken report to the first respondent.

7. But the second respondent did not conduct enquiry as directed by the first respondent and kept the said representation still pending without any progress. Hence the petitioner has filed the present writ petition.

8. Learned Additional Government Pleader opposed to grant direction stating that it appears that there has been a dispute in respect of total extent of land situate in the subject property between the petitioner and the 3rd respondent and hence the petitioner has to seek appropriate remedy before the civil Court.

9. However, this Court, irrespective of the submissions made on either side, is of the view that the representation given by the petitioner is still pending as on date. Therefore, without going into the merits of the case, this Court directs

the 2nd respondent to consider the representation of the petitioner dated 7.1.2016 by conducting an enquiry after affording an opportunity of personal hearing to the petitioner as well as to the 3rd respondent and pass appropriate orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

10. 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 for the 2nd respondent to decide the matter purely on merits.

11. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

msr

To

1. The District Collector,
Office of the District Collector,
Villupuram,
Villupuram District.
2. The Sub Collector,
Dindivanam,
Villupuram District.

1 cc to Mr.M. Jaikumar, Advocate, Sr. 25826
1 cc to Government Pleader, Sr. 26647

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