

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.16559 of 2016
and
WMP.No.14302 of 2016

Kannammal
W/o Rathnam @ Ardhanari,
Door No. 4/1A, Iyanthirumaligai,
Kannankurichi post,
Salem - 636 008. ... Petitioner

Vs

1. The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board,
Iyanthirumaligai, Salem 636 008.
2. N. Ramasamy
3. P.Moorthy Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the First Respondent to consider the petitioner's representation dated 18/04/2016.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.V.Anandhamoorthy
No.1

O R D E R

The petitioner has come forward with the present Writ Petition praying for issuance of a Mandamus upon the 1st respondent to consider the petitioner's representation dated 18/04/2016.

2. According to the petitioner, the petitioner has purchased the property comprised in survey No.94/4 measuring 49 cents situate at Iyamperumampatti Village, Salem Taluk and District from one Muthusamy Gounder and his legal representatives under

a registered sale deed on 12.8.1980 and from the date of purchase, he has been in continuous and uninterrupted possession and enjoyment of the said property. Soon after the date of purchase, the Government of Tamilnadu have acquired his land for the purpose of neighbourhood scheme for constructing house sites and the said land was requisite with the 1st respondent herein, who is the requisitioning body. Hence the petitioner has filed a writ petition in W.P.No.9566 of 1986 and the same was allowed on 16.11.1996. Aggrieved against the same, the 1st respondent herein has preferred a Writ Appeal in W.A.No.33 of 2003 and the same was allowed on 16.6.2006 by remanding the same to the learned Single Judge to decide the writ petition afresh on merits within two weeks and now the Writ Petition is pending disposal.

3. It is the further case of the petitioner that in the interregnum period, the respondents 2 and 3 are trying to make an encroachment upon his property by constructing a temple. Therefore he sent a representation to the 1st respondent stating all the facts and also requested to take appropriate action against the trespassers. Followed by the same, the 1st respondent sent his communication dated 17.6.2009 vide his letter No.Ni.A.1/7337/79 stating that in view of the pendency of the writ petition, no action could be taken and further necessary action will be initiated when the writ petition is disposed and the order is obtained in favour of the Tamil Nadu Housing Board.

4. I have heard the submissions made by the learned counsel for petitioner and the learned Standing Counsel appearing for 1st respondent.

5. It is the grievance of the petitioner that when the Writ Appeal is pending for the past 6 years and there was an order of status quo, the private respondents are now trying to put up a permanent structure in the name of temple by entering upon his property without any right, interest or claim. Though the entire property is under the custody of the 1st respondent, who is the competent authority to take necessary action to remove the encroachments from the said land, the 1st respondent have issued a communication as if he has no connection to the land and in future, they would take necessary action if the writ petition pending before this Court challenging the acquisition proceedings is ended in their favour and thereby evading to take necessary action. Hence the petitioner, again sent a representation on 18.4.2016 to the 1st respondent requesting to take appropriate action to remove the encroachments made by the private respondents in her land. Despite petitioner's representation, no action has been initiated by the 1st

respondent and the same has been kept pending till date. Hence she filed the present writ petition.

6. It is seen that the representation dated 18.4.2016 given by the petitioner is pending with the 1st respondent till date without initiating any action. Hence, this Court, without going into the merits of the claim made by the petitioner, directs the 1st respondent to consider the representation of the petitioner dated 18.4.2016 by conducting enquiry and pass appropriate orders after affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msr

To

The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board,
Iyanthirumaligai,
Salem 636 008.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.27562

W.P.No.16559 of 2016
and
WMP.No.14302 of 2016

CA(CO)
CA(10/06/2016)

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