

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2016

CORAM

THE HON'BLE MR. JUSTICE R.SUBBIAH

W.P.No.24580 of 2015

and M.P.No.1 of 2015

R.Moorthy Arulappan

... Petitioner

Vs

1. The Revenue Divisional Officer
Tindivanam
Villupuram District.

2. Thasildar
Gingee
Villupuram District.

... Respondents

Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings passed by the 2nd respondent in Na.Ka.A5/14501/2013, dated 30.12.2013, and quash the same and further to direct the 2nd respondent to issue patta to the petitioner in respect of the property bearing Survey Nos.31/12B, 31/15, 31/16, 31/17, 31/18B and 31/19, situated in Thamanur Village, Gingee Taluk, Villupuram District.

For Petitioner : Mr.K.Vasudevan

For respondents : Mr.M.Dig Vijay Pandian
Additional Government Pleader.

सतयमेव जयते
O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings passed by the 2nd respondent in Na.Ka.A5/14501/2013, dated 30.12.2013, and quash the same and further to direct the 2nd respondent to issue patta to the petitioner in respect of the property bearing Survey Nos.31/12B, 31/15, 31/16, 31/17, 31/18B and 31/19, situated in Thamanur Village, Gingee Taluk, Villupuram District.

2. The brief facts, which are necessary to dispose of this Writ Petition, are as follows:-

(i) The petitioner herein belong to Scheduled Caste. He purchased the dry lands comprised in Survey Nos.31/15, 31/16, 31/17, 31/18B and 31/12B situated in Thamanur Village, Gingee Taluk, Villupuram District, in the year 2002, vide registered sale deed No.815/2002, dated 28.03.2002 on the file of the Sub-Registrar, Gingee, Villupuram District. Even before purchasing the said property by the petitioner, the vendors had leased out the said lands to the petitioner's father. Therefore, the petitioner and his father were cultivating the said lands for the past 30 years. The said land is provided with a well.

(ii) While so, the Special Tahsildar issued a Form-I Notice, on 27.12.1998, bearing No.A/400/98, as enlaid under Rule 3(1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Scheme Rules 1979 read with Section 4(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (Act No.31 of 1978), stating that the lands situated in Thamanur Village, Gingee Taluk, Villupuram District, were necessary to be acquired for the purpose of providing house sites to the Christian Adi-Dravidar in Thamanur Village.

(iii) Against the issuance of Form-I Notice, dated 27.12.1998, by the Special Tahsildar, the similarly affected person filed W.P.No.4997 of 1999. The petitioner herein also filed a Writ Petition in W.P.No. 4087 of 2008. This Court, while disposing of the W.P.No.4997 of 1999 on 06.01.2009, has observed as follows:-

"The respondents, if so desired, shall take steps to issue notification within a period of twelve weeks from the date of receipt of a copy of this order. Till such a time, status quo regarding possession of the land will continue. The Writ Petition stands disposed of accordingly."

After the said order was passed in the said Writ Petition, no proceedings were initiated. Even as on date, the petitioner is in possession and cultivating the said land.

(iv) The petitioner has made a representation to the 2nd respondent on 02.06.2012, for issuance of patta. But the same was rejected on the ground that the petitioner's Writ Petition in W.P.No. 4087 of 2008 was pending before this Court. But, in the order in W.P.No.4997 of 1999, dated 06.01.2009, this Court has clearly directed the respondents to initiate fresh acquisition proceedings within a period of 12 weeks from the date of receipt of a copy of the order. But, till date, no action was taken for acquisition of the land, therefore, the rejection of the petitioner's representation is not correct and

hence, aggrieved against the same, the petitioner has preferred an appeal before the 1st respondent on 20.02.2015, with regard to the right of the claim of the petitioner. Though, the said appeal was filed in the year 2015, for the past one year no action was taken and hence, the present Writ Petition has been filed.

3. When the matter is taken up for consideration, Mr.K.Vasudevan, the learned counsel for the petitioner made his submissions reiterating the averments made in the affidavit.

4. Mr.M.Dig Vijay Pandian, the learned Additional Government Pleader vehemently opposed the grant of the prayer sought for by the petitioner.

5. Irrespective of the submissions made on either side, this Court, without going into the merits of the claim made by the petitioner, directs the 1st respondent/Revenue Divisional Officer, Tindivanam, Villupuram District, to consider the appeal of the petitioner, by affording an opportunity of personal hearing to the petitioner, as well as, necessary parties, and pass appropriate orders , on merits and in accordance with law, within a period of three months (12 weeks) from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner. It is for the 1st respondent to consider the appeal of the petitioner purely on merits.

6. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

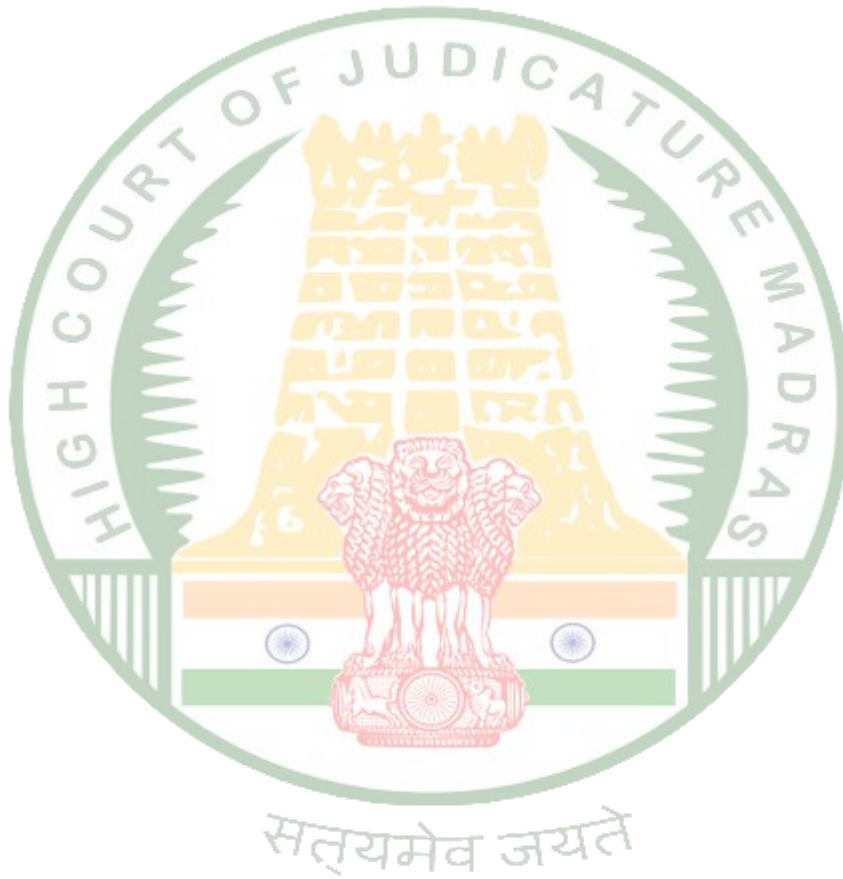
To

1. The Revenue Divisional Officer,
Tindivanam,
Villupuram District.

2. Thasildar,
Gingee,
Villupuram District.

W.P.No.24580 of 2015

svi (CO)
srg (17/03/2016)



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