

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12-08-2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.29115 and 29116 of 2014
and
M.P.Nos.1+1 of 2014

Mark Peter .. Petitioner in W.P.No.29115 of 2014
S.Claiment .. Petitioner in W.P.No.29116 of 2014

Vs

1.The Revenue Divisional Officer
Madurantakam Taluk
Madurantakam
Kancheepuram District.

2.The Tahsildar
Madurantakam Taluk Office
Madurantakam
Kancheepuram District.

... Respondents in both the petitions

Prayer in W.P.No.29115 of 2014 : The writ petition is filed seeking for a Writ of Mandamus, directing the second respondent to comply with the order, dated 11.6.2009 passed by this Court, in W.P.No.2050 of 2009, directing him to consider and dispose of the petitioner's representation, dated 30.08.2008, requesting him for the assignment of the Meyakkal Poramboke land comprised in S.No.475/2C, situated at Sagaya Nagar, Bhudur Village, Madurantakam Taluk, Kancheepuram, in exchange of his patta land comprised in S.NO.266/1B, situated at Sagaya Nagar, Essur Village, Madurantakan Taluk, Kancheepuram.

Prayer in W.P.No.29116 of 2014 : The writ petition is filed seeking for a Writ of Mandamus, directing the first and the second respondents to consider and pass orders on the representation of the petitioner, dated 8.9.2014 requesting to assign the Meyakkal Poramboke land measuring 20 cents comprised in S.No.507 at Sagaya Nagar, Bhudur Village, Madurantakam Taluk, Kancheepuram, in exchange of his patta land comprised in S.No.479/3A, having an extent of 40 cents situated at Sagaya Nagar, Bhudur Village, Madurantakan Taluk, Kancheepuram.

For Petitioner : M/s.N.Nagusah

For Respondent : Mr.K.Dhananjayan
Special Govt. Pleader

C O M M O N O R D E R

Both the above writ petitions have been taken up for hearing, together, as the issues arising in the writ petitions are common in nature, and disposed of, by way of a common order.

2. Heard the learned counsel, appearing on behalf of the petitioners, as well as the learned counsel appearing on behalf of the respondents.

3. The writ petition, in W.P.No.29115 of 2014, has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the second respondent to comply with the order, dated 11.6.2009, passed by this Court, in W.P.No.2050 of 2009, directing him to consider and dispose of the petitioner's representation, dated 30.08.2008, requesting for the assignment of the Meikkal Poramboke land, comprised in S.No.475/2C, situated at Sagaya Nagar, Bhudur Village, Madurantakam Taluk, Kancheepuram, in exchange of his patta land, comprised in S.No.266/1B, situated at Sagaya Nagar, Essur Village, Madurantakan Taluk, Kancheepuram.

4. The writ petition, in W.P.No.29116 of 2014, has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the first and the second respondents to consider and pass orders on the representation of the petitioner, dated 8.9.2014, requesting to assign the Meikkal Poramboke land measuring about 20 cents, comprised in S.No.507, Sagaya Nagar, Bhudur Village, Madurantakam Taluk, Kancheepuram, in exchange of his patta land, comprised in S.No.479/3A, having an extent of 40 cents, situated at Sagaya Nagar, Bhudur Village, Madurantakan Taluk, Kancheepuram.

5. The learned counsel, appearing on behalf of the petitioner had submitted that the exchange of land is permitted under Section 26-A of the Revenue Standing Orders.

6. Per contra, the learned counsel, appearing on behalf of the respondents had submitted that an order had been passed by this Court, dated 11.6.2009, in W.P.No.2050 of 2009, directing the second respondent in the said writ petition, namely, the Tahsildar, Madurantakam Taluk Office, Madurantakam, to dispose of the representation of the petitioner, dated 30.08.2008, within a period of twelve weeks from the date of receipt of a copy of the order. As such, it is not open to the petitioner to file another writ petition, for a similar relief.

7. In view of the submissions made by the learned counsel, appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that the petitioner, in W.P.No.29115 of 2014, had already obtained an order from this Court, dated 11.6.2009, in W.P.No.2050 of 2009, for the same relief, as prayed for, in the present writ petition. As such, the petitioner cannot be permitted to seek a similar relief, by way of filing a fresh writ petition. Hence, the writ petition, in W.P.No.29115 of 2014, is liable to be dismissed.

8. Further, counter affidavits had been filed by the second respondent, in both the writ petitions, stating that the exchange of land, under Section 26-A of Revenue Standing Orders, is permissible for the following cases:-

"i) Where a river, waterway, cart-track, etc., has changed its course through a private holding, the owner is willing to relinquish the land covered by the actual course in exchange for the portion registered in the accounts as river, etc.

ii) For straightening the course of a channel, pathway, etc., or where a channel pathway, etc., splits up a holding into two and it can be diverted along the boundary of the holding without any inconvenience to the public.

iii) Where it is desirable to prohibit any cultivation in the bed of an irrigation tank or river and the private owner is willing to relinquish the land situated in such bed in exchange for land at the disposal of the Government.

iv) Where small extents of private land not exceeding 25 cents in each case are required for a public purposes such as minor improvements in irrigation sources or construction of chavadies, cattle-pounds, wells or schools.

v) Where by an act of the Government, a private holding or any portion thereof has been rendered valueless or has been diminished in value and the private owner is willing to take land at the disposal of the Government in exchange for such holding or portion, as the case may be.

vi) Where a private owner is willing to provide land for the extension of village sites in exchange for land at the disposal of the Government.

Vii) Where a private owner is willing to relinquish small extents of land not exceeding 25 cents in each case for the consolidation of his holding."

9. It is also noted from the counter affidavits filed by the second respondent that the lands offered by the petitioners, in the above writ petitions, do not fall under the categories mentioned in Section 26-A of the Revenue Standing Orders. Therefore, the relief prayed for by the petitioners, in the above writ petitions, cannot be granted, by this Court.

10. In such circumstances, this Court finds that the provisions of Section 26-A of Revenue Standing Orders, are only empowering the authorities concerned to accept the exchange offer, if it comes within the categories mentioned above. Since the exchange offer made by the petitioners, do not fall under the categories mentioned in Section 26-A of the Revenue Standing Orders, the same cannot be accepted.

11. In such circumstances, this Court is of the considered view that the above writ petitions are not maintainable. Hence, the writ petitions stand dismissed. No costs. Consequently, connected M.Ps. are also dismissed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1.The Revenue Divisional Officer
Madurantakam Taluk
Madurantakam
Kancheepuram District.

2.The Tahsildar
Madurantakam Taluk Office
Madurantakam
Kancheepuram District.

+2 cc's to Mr.N.Nagu sah, advocate,sr.46897, 898

+1 cc's to `Govt.Pleader,sr.46476.

ad(co)
krd 20/9

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and
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