

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7636 OF 2015

K.Karuppayee

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Petitioner

-vs-

1.The Commissioner,
Land Administration,
Ezhilalagam,
Chennai-600 005.

2.The Collector,
Office of the District Collectorate,
Pudukkottai District,
Pudukkottai.

3.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

4.The Assistant Director of Agriculture,
Pudukkottai.

...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records of the impugned order passed by the second respondent in his proceedings in Na.Ka.No.755/2012-D3, dated 28.04.2013, which were confirmed by the impugned order passed by the first respondent in Na.Ka.No.H3/13120/13, dated 05.09.2013, quash the same, and direct the respondents to reconvey the land measuring an extent of 8.03.0 hectares, situated in Survey No.127/1, in Lamgalakudi Village, Thirumayam Taluk, Pudukkottai District, in favour of the petitioner.

For petitioner : Mr.Tanqubar Durai Vasu

For respondents : Mr.M.L.Mahendran

O R D E R

Petitioner has filed this Writ Petition, praying for issuance of a writ of certiorarified mandamus, to call for the records of the impugned order passed by the second respondent in his proceedings in Na.Ka.No.755/2012-D3, dated 28.04.2013, which were confirmed by the impugned order passed by the first respondent in Na.Ka.No.H3/13120/13, dated 05.09.2013, to quash the same, and for a direction to the respondents to reconvey the land measuring an extent of 8.03.0 hectares, situated in Survey No.127/1, in Lamgalakudi Village, Thirumayam Taluk, Pudukkottai District, in his favour.

2. Petitioner claims to have inherited the property, pursuant to a Will executed by one Kulathayi, who is said to be the maternal grandmother of the petitioner. The lands were acquired for the purpose of a State Seed Farm, to be established by Agricultural Department.

3. In the counter affidavit filed by the third respondent, it is admitted that the purpose of acquisition, which was done during 1962, was for the said scheme and the said scheme became defunct and, therefore, the Government issued a G.O.Ms.No.130, Agriculture Department, dated 30.01.1978. It is stated that the Government has directed the Revenue Department to change the classification of the land as Government poramboke land. The fact remains that for nearly 50 years, the property has not been utilised for any purposes, much less the purpose, for which it has been acquired, as it has been dropped. That apart, from 1978 onwards, nothing has happened and the revenue entries remain the same. In fact, there appears to be a sale transaction in favour of one Chidambaram, in respect of a portion of the property, by virtue of a registered sale deed, dated 04.01.2011. In the said factual situation, the petitioner placed all the documents before the District Collector by submitting an application through proper channel, requesting that land could be reconveyed. The petitioner also undertook to pay the land cost and abide by whatever conditions that may be imposed. The petitioner also stated as to how she is entitled to the property. The District Collector considered all these issues and wanted certain guidance or directions from the first respondent and, therefore, he sent a communication to the first respondent on 28.04.2013. The first respondent, on receipt of the communication, did not go into the merits of the contentions raised, but pointed out that there was a sale transaction on 04.01.2011 and the District Collector was directed to take steps to cancel the sale deed and then take the land for government purposes.

4. As rightly pointed out by the learned counsel for the petitioner, the first respondent did not endeavour to consider as to whether the lands are required for any other purposes or whether the petitioner is entitled to claim reconveyance of the same by exercising her right under Section 48-B of the Land Acquisition Act, 1894, or under Section 101 of the new Act, Act 30 of 2013.

5. Learned counsel for the petitioner submitted that the petitioner will undertake to ensure that the sale deed, dated 04.01.2011, is properly cancelled and the cancellation deed be registered and with that document, he would approach the authorities for necessary action. One more issue the petitioner has to comply with is, to establish as to how she has absolute and individual right over the property in question. This has to be established before the District Collector in a proper manner and by producing necessary documents. The District Collector is empowered to conduct necessary enquiry into the matter, before taking a decision on the petitioner's right over the property in question.

6. In the above circumstances, this Court is inclined to remit the matter to the second respondent/District Collector for appropriate consideration. Accordingly, this Writ Petition is partly allowed. The impugned proceedings of the first respondent, dated 05.09.2013, are set aside and the matter is remitted to the second respondent for fresh consideration, leaving it open to the petitioner to submit a fresh representation, after obtaining appropriate cancellation deed, by cancelling the registered sale deed, dated 04.01.2011, registered as Document No.16 of 2011. If such representation is made, the District Collector shall conduct an enquiry into the matter in the manner known to law and proceed in accordance with the relevant statutes and pass orders within a period of three months from the date on which the representation is submitted. During the course of enquiry, the second respondent shall afford an opportunity of personal hearing to the petitioner or her authorised representative, so as to enable the petitioner to place all relevant documents, for consideration. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

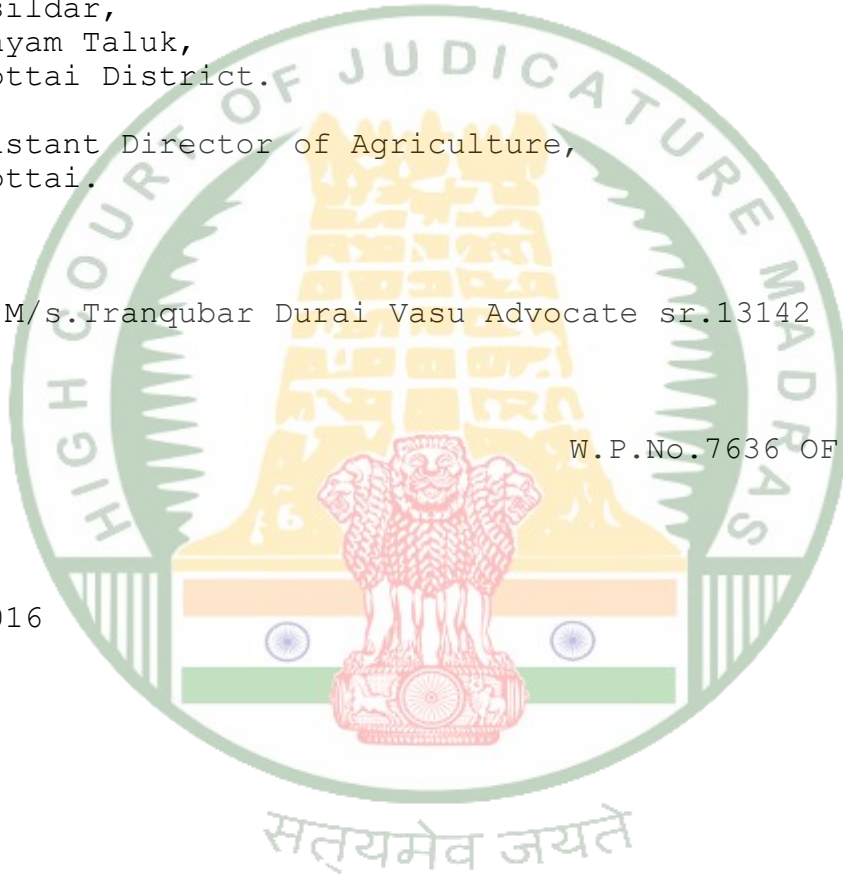
To

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+5 ccs to M/s.Tranqubar Durai Vasu Advocate sr.13142

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