

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.2538 of 2016
and
W.M.P. Nos.2167 and 2168 of 2016

K. Ammasi

... Petitioner

Vs.

1. The Government of Tamil Nadu
represented by its Secretary
Revenue Department
Fort St. George
Chennai - 600 009
2. The Commissioner for Land Administration
Chepauk, Chennai 600 005
3. The District Collector
Namakkal District, Namakkal
4. The Assistant Engineer
Public Works Department, WRO
Rasipuram 637 408

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to issue of the impugned order, viz., Lr.No.Ko.3/2016/AE/(Ra) dated 04.01.2016 issued by the fourth respondent and quash the same and consequently, to direct the respondents 3 and 4 not to interfere with the petitioner's possession and enjoyment of the subject lands situated and the house constructed in Survey No.67 of Mathiampatti Village of Rasipuram Taluk, Namakkal District, till the 1st respondent passes orders on the Appeal preferred by the petitioner against the proceedings of the third respondent in Proc. No.Na.Ka.No.780/2015/L5 dated 13.11.2015.

For petitioner : Mr. N. Subramanian
for Mr. G. Mutharasu

For respondents : Mr. N. Sakthivel
Government Advocate

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the respondents. With consent, the writ petition is taken up for final disposal.

2. This writ petition is filed impugning the notice dated 04 January 2016 issued by the fourth respondent, whereby and whereunder, the petitioner was directed to remove the encroachment and further, for a direction to respondents 3 and 4 not to interfere with the petitioner's possession and enjoyment of her lands and house, till the first respondent passes orders on her appeal against the proceedings dated 13 November 2015 passed by the third respondent.

3. Pursuant to the liberty granted by this Court in W.P. No.8954 of 2013, the petitioner made a representation dated 24 March 2014 to the second respondent, viz., Commissioner for Land Administration, Chennai, seeking grant of patta. The second respondent, on 14 January 2015, on a careful and detailed consideration of the entire gamut of the issue, including the petitioner's representation, passed the following order:

"9. x x x x x x x x The Collector of Namakkal District is directed to reconsider the matter (in regard to house site patta under One Time Scheme) as a special case on the above lines and after following the procedures laid down in G.O. (Ms.) No. 142, Revenue (LD1(2)) Department dated 23.05.2013 and if he is satisfied regarding the eligibility, a proposal should be sent to Government for granting house site patta to the petitioner for the extent eligible, since as per G.O. (Ms.) No.372 Revenue (LD1(2)) Department dated 26.08.2014, which is now current, there is a ban to grant house site patta on objectionable porambores at the Collector's level."

4. On the heels of the aforesaid order, on 04 January 2016, a notice granting 21 days' time to all the concerned, including the petitioner, was issued by the fourth respondent, ordering removal of encroachment. The said period of 21 days has come to an end today. Just two days before the last date, the petitioner has come up with this writ petition on 22 January 2016 seeking the same relief, i.e., permitting him to make a fresh attempt before the Government.

5. We have examined the entire case from all angles and considered the pleadings and documents appended thereto. We are of the considered view that sufficient opportunity has been afforded to the petitioner to put forward her case before the authorities. The petitioner's case was considered carefully at every stage and after such careful consideration, vide the impugned order, three weeks' time is granted to remove the encroachment.

6. Be that as it may, we grant further one week time to the petitioner to make a representation to the fourth respondent, viz., the Assistant Engineer, Public Works Department, WRO, Rasipuram. Upon receipt of such representation from the petitioner, the fourth respondent shall examine the same on merits and in accordance with law and take consequential action thereafter.

The writ petition stands disposed of with the above directions. The authorities are directed to place the action taken report on record before this Registry, thereafter. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

Note:

Upon action taken report being filed by the authorities, the Registry is directed to place the same before this Court.

To

1. The Secretary
Revenue Department
Government of Tamil Nadu
Fort St. George
Chennai - 600 009
2. The Commissioner for Land Administration
Chepauk, Chennai 600 005

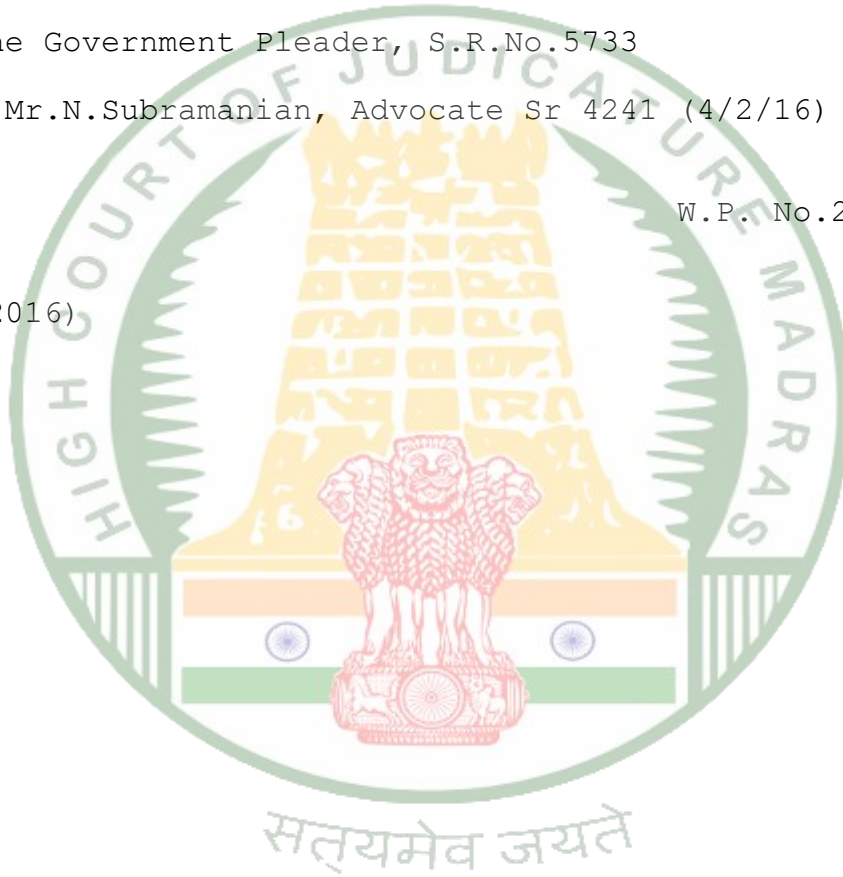
3. The District Collector
Namakkal District, Namakkal
4. The Assistant Engineer
Public Works Department, WRO
Rasipuram 637 408.
5. The Section Officer,
Writ Section,
High Court, Madras.

+1cc to the Government Pleader, S.R.No.5733

+ 1 cc to Mr.N.Subramanian, Advocate Sr 4241 (4/2/16)

W.P. No.2538 of 2016

SVI (CO)
CA(04/02/2016)



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