

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.27205 of 2016

And

W.M.P.No.23350 of 2016

M.Srinivasa

... Petitioner

Vs.

- 1 The District Revenue Officer
District Collectorate,
Krishnagiri.
- 2 The Sub Collector,
Hosur.
- 3 The Tahsildar,
Hosur.
- 4 The Block Development Officer,
Hosur.
- 5 Siddappa

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 2 & 3 from altering the patta granted to the petitioner and his brothers by the 3rd respondents (Tahsildar, Hosur), for the land measuring Acre 1.70 cents in Survey No.166/A4 in Mornapalli Village, Hosur Taluk, Krishnagiri District, in view of the Judgment passed in

O.S.No.262/2005 on the file of the District Munsif Court, Hosur.

For Petitioner : Mr.M.V.Krishnan
For Respondents : Mr.R.A.S.Senthilvel for R1 to R3
Additional Government Pleader
Mr.N.Inbanathan for R4
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner in the affidavit filed in support of this writ petition would aver among other things that his family own lands in S.No.166/A4 in Mornapalli Village, Hosur Taluk, Krishnagiri District through a partition, which came into being in the year 1966. It is further stated by the petitioner that the fifth respondent has filed O.S.No.262 of 2005 on the file of the Court of District Munsif Cum Judicial Magistrate No.1, Hosur against five persons which include the petitioner also (fourth defendant) praying for declaration of his title and possession of the land admeasuring to an extent of 1.70 acres in S.No.166/A4 of the same village and the said suit came to be dismissed for default on 17.09.2012 and thereafter, the fourth respondent did not take any steps to restore the said suit and therefore, the said judgment and decree had become final.

3.The learned counsel appearing for the petitioner would submit that in the light of the dismissal of the suit filed by the fifth respondent in O.S.No.262 of 2005, the third respondent has no jurisdiction to call the petitioner for enquiry for the purpose of grant of patta and prays for interference.

4.Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader who accepts notice on behalf of the respondents 1 to 3, has drawn the attention of this Court to the typed set of document and would submit that the fifth respondent on an earlier occasion, had filed W.P.No.23589 of 2015, against the very same official respondents and also against the petitioner and two others, praying for appropriate direction, directing the third respondent herein to consider and dispose of the representation, dated 27.03.2015 for issuance of computerized patta, in respect of the above said lands and this Court, vide order dated 04.08.2015, has directed the third respondent to consider the representation and pass appropriate orders within a stipulated time frame and also to put the concerned persons on notice and in compliance of the above said order only, the third respondent has issued the impugned notice, otherwise, he will be called for contempt and prays for dismissal of the writ petition.

5.This Court also heard the submissions of Mr.N.Inbanathan, learned Government Advocate who accepts notice on behalf of the fourth respondent and has also carefully considered the rival submissions and perused the materials placed before it.

6.No doubt, the suit in O.S.No.262 of 2005, filed by the fifth respondent on the file of the Court of District Munsif Cum Judicial Magistrate No.1, Hosur for declaration of his title, came to be dismissed for default on 17.09.2012, but the fact remains that the fifth respondent has approached this Court by filing W.P.No.23589 of 2015 for issuance of computerized patta and this Court, disposed of the writ petition at the admission stage itself on 04.08.2015, by directing the third respondent to consider the representation and to dispose of the same, in accordance with law, by putting the concerned persons on notice and accordingly, the third respondent in compliance of the above said order, has put the petitioner on notice through the impugned notice.

7.In the considered opinion of this Court, the procedure adopted by the third respondent cannot be faulted with, as he is under mandate to comply with the order dated 04.08.2015, passed in W.P.No.23589 of 2015. Be that as it may, it is open to the petitioner

to appear before the third respondent in the form of response/ representation by enclosing the necessary documents which include the judgment and decree dated 17.09.2012 made in O.S.No.262 of 2005 and the third respondent, on receipt of the response from the petitioner as well as the fifth respondent, shall consider the same on merits and pass appropriate orders, in accordance with law, within the time limit stipulated by this Court in the order dated 04.08.2015 passed in W.P.No.23589 of 2015.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

04.08.2016

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Index: Yes/ No
Internet: Yes/ No

To

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M.SATHYANARAYANAN,J.
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