



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2016

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.A. (MD) No.1255 of 2016
against
WP. (MD) .No.4237 of 2013

K.P.Indira

... Appellant / Petitioner

-vs-

1.The District Collector
Nagercoil
Kanyakumari District

2.The Thasildar
Agestheeswaram Taluk
Nagercoil, Kanyakumari District

... Respondents / Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 08.04.2013, made in W.P.(MD) No.4237 of 2013.

Prayer in WP(MD). 4237/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to make appropriate entries in the revenue records acknowledging the petitioner s ownership over the property in Survey No.183/5 Kulasekara Puthur Village, Kanyakumari District as per the judgement and direct of this Honourable court in S.A.(MD) No.705/2008 dated 28.07.2008 and inform the land acquisition authorities about the petitioner s ownership over the same.

For Appellant : Mr.K.Pasupathy

For Respondents : Mr.D.Muruganantham, A.G.P.



J U D G M E N T

[Judgment of the Court was made by M.SATHYANARAYANAN, J.]

Mr.D.Muruganantham, learned Additional Government Pleader, takes notice on behalf of respondents and with the consent of both sides, this writ appeal is taken up for final hearing at the admission stage itself.

2. The appellant is the plaintiff in the suit in O.S.No.668 of 1995, on the file of the Court of Additional District Munsif, Nagercoil, filed for declaration and other consequential reliefs and the said suit was decreed on 29.10.2003 and challenging the same, the respondents / defendants preferred first appeal in A.S.No.206 of 2004, on the file of the Court of I Additional Subordinate Judge, Nagercoil and it was dismissed on 27.02.2006 and challenging the same, they preferred second appeal in S.A.No.705 of 2008 and it was also dismissed by this Court on 28.07.2008. Thereafter, the appellant submitted a representation, dated 23.11.2012, to the respondents to give effect to the Judgment and Decree passed by the Courts of competent jurisdiction and since no response was forthcoming, the appellant was constrained to file a writ petition in W.P.(MD) No.4237 of 2013 and the Single Bench of this Court, taking note of the relevant facts and circumstances, by order dated 08.04.2013, directed the second respondent to consider and dispose of the representation, dated 23.11.2012, on merits and as per law, within a period of four months from the date of receipt of a copy of that order and aggrieved by the said order, dated 08.04.2013, the appellant has filed this writ appeal.

3. The learned counsel for the appellant would submit that since the respondents herein are party to the civil proceedings, they are bound by the Judgment and Decree passed by the Courts of competent jurisdiction and hence a positive direction ought to have been given, instead the Single Bench of this Court merely directed the respondents to consider and dispose of the appellant's representation on merits and in accordance with law and hence the learned counsel prays for interference of this Court.

4. Per contra, Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents, seeks time to get instructions as to whether any decision has been taken to challenge the legality of the Judgment and Decree passed in S.A.No.705 of 2008.

5. This Court has considered the rival submissions and perused the materials produced.

<https://hcservices.ecourts.gov.in/hcservices/>

6. In the considered opinion of this Court, the direction given by the Single Bench of this Court vide order, dated



08.04.2013, cannot be faulted with for the reason that instead of granting a larger relief, a simple direction was given to the respondents directing them to consider and dispose of the appellant's representation, dated 23.11.2012, in and by which he made such a request.

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7. A perusal of the typed set of papers would disclose that no acknowledgement is available for receipt of the representation, dated 23.11.2012. In the facts and circumstances, this Court directs the appellant to submit one more representation to the respondents by enclosing a copy of this Judgment as well as a copy of the Judgment and Decree passed in S.A.No.705 of 2008, within a period of two weeks from the date of receipt of a copy of this Judgment and on receipt of the same, the second respondent is directed to consider the said representation in the light of the decision rendered by the Civil Courts and pass orders in accordance with law, within a period of six weeks thereafter and communicate the decision taken to the appellant.

8. The writ appeal is dismissed subject to the above observations. No costs.

Sd/-

Assistant Registrar (T&P.)

/True Copy/

Sub - Assistant Registrar

To:

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Thasildar,
Agestheeswaram Taluk,
Nagercoil, Kanyakumari District.

+1cc to the special Government Pleader SR.No.51517

krk

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