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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:02.08.2016

CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

W.P(MD)No.13758 of 2016

and

W.M.P. (MD) .No.10263 of 2016

M/s.Rahmathullah Sha Mosque Durga
Private Wakf-Ulal-Aulad,
Inam Samayapuram, Mannachanallur Taluk,
rep. By its Hereditary Trustee & Muthavalli
Syed Jeelani
rep. Through his power of attorney holder
Mr.Syed Asmath Batcha.

..Petitioner

Vs

1.The Settlement Officer,
O/O.The Commissioner and Director of Survey and Settlement
Chepauk, Chennai.

2.The Assistant Settlement Officer (North)
O/o.Survey and Settlement
Chepauk, Chennai.

3.The State of Tamil Nadu,
rep. By its District Collector,
Trichy District,
Trichy.

4.The Tahsildar,
Mannachanallur Taluk,
Trichy District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 4th respondent to implement the order passed by this Hon'ble Court in W.P.(MD)No.8419 of 2015 dt. 04.06.2015 and pass final order, as per the enquiry conducted by him on 16.10.2015 for issuance of Ryotwari Patta to petitioner's land situated in Survey no.208 of Samayapuram Village, Mannachanallur Village, Tiruchirappalli District, within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.R.Singaravelan, Sr.Counsel
for Mr.M.Vinoth Singh Misra

For Respondents :Mr.K.Guru
AGP for RR-1 to 4

ORDER

Heard both sides.

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

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



3.No counter is filed on behalf of the respondents.

4.According to the petitioner, the land comprised in S.F.No.208 of Samayapuram Village of Mannachanallur Taluk, Trichy District was originally gifted to Rahamathullah by the Queen Meenakshi Ammal, during the fasli year 1158 (corresponding to 1773 A.D). Further, after the Moghul Empire came to power, this area fell within the ambit of Nawab of Arcot, who had conferred the above said gift vide the order passed in the year Hijiri 1762 (corresponding to 1741 A.D). Thereafter, during the British rule, the said property was included in the Inam Register of the year 1865 and included in the T.D.No.877 and the entire properties of the Durgah were also entered in the Wakf Register.

5.While that be the facts situation, the petitioner came to know that an extent of 42.51 hectares was wrongly classified in the revenue records as 'Samayapuram Eri' by the Settlement Tahsildar in a *suo motu* proceedings. In fact, no notice was issued to the petitioner/Registered Land Holder, during settlement. Therefore, the petitioner/Durgah approached the Settlement Officer to grant ryotwari patta in their favour in terms of ingredients of Tamil Nadu Inam Estate (Abolition and Conversion into Ryotwari) Act 26 of 1963 and Wakf Act, 1995.

6.It is represented on behalf of the petitioner that the Settlement Officer, without going into the merits of the case passed the impugned order by directing the petitioner /Durgah to approach the Inam Tribunal. Therefore, an appeal was filed before the Learned Inam Tribunal/Principal Sub Judge, Trichy under Section 12(2) of Act 26 of 1963 in Inam C.M.A.No.3 of 2011.

7.It comes to be known that the Tribunal, after going through the entire gamut of records/documents/merits of the case and the settlement made on either side, passed a judgment dated 25.06.2013 by allowing the Civil Miscellaneous Appeal and set aside the order of the Settlement Officer, dated 20.07.2011 and directed the 4th respondent/Tahsildar, Mannachanallur Taluk, Trichy District to issue ryotwari patta in petitioner's name in respect of S.F.No.208 of Samayapuram Village, Mannachanallur Taluk, Trichy District. As against the judgment and decree dated 25.06.2013, passed in Inam C.M.A.No.3 of 2011, the 4th respondent/Tahsildar, Mannachanallur Taluk, Trichy District had not filed any appeal and as such, the judgment in Inam C.M.A.No.3 of 2011, dated 25.06.2013 has become final and conclusive. As such, the petitioner/Durgah made a representation before the 3rd and 4th respondents on 07.11.2014 etc., and also sent a detailed representation to the 4th respondent through registered post with acknowledgment card on 09.05.2016, praying for issuance of ryotwari patta. Till date, the grievance of the petitioner/Durgah is that his representations are pending before the 4th respondent without any order being passed and also that, the issuance of patta to the petitioner/Durgah is very much necessary for the purpose of enjoying the land in question.

8. It transpires that the petitioner/Durgah filed W.P.(MD). No.8419 of 2015, seeking for passing of an order by this Court in directing the 4th respondent/Tahsildar, Mannachanallur Taluk, Trichy



District therein, to pass an order on its representation dated 07.11.2014 in regard to the issuance of Ryotwari Patta to his land situated in Survey No. 208 of Samayapuram Village, Manachanallur Taluk, Tiruchirappalli District within the time limit determined by this Court. On 04.11.2015, this Court passed an order, by observing *inter alia* as under:

"Hence, without going into the merits of the claim made by the petitioner in this writ petition, the fourth respondent is directed to pass appropriate orders, on the representation of the petitioner, dated 07.11.2014, on merits and in accordance with law, after giving notice to the interested parties and also after verifying the relevant records as on date, within a period of two months from the date of receipt of a copy of this order."

9.The petitioner/Durgah produced a copy of the order in W.P.(MD).No.8419 of 2015, dated 04.06.2015, before the 4th respondent/Tahsildar, Mannachanallur Taluk, Trichy District together with necessary documents and in fact, the fourth respondent had caused an enquiry notice to the petitioner, on 07.10.2015. In fact, the enquiry was originally scheduled on 16.10.2015 and that the petitioner/Durgah's representative appeared in the said enquiry on the very same date together with necessary documents. Also before the fourth respondent, the petitioner/Durgah's title documents were produced and even after receipt of the said documents from the petitioner/Durgah, the grievance of the petitioner is that the 4th respondent/ Tahsildar, Mannachanallur Taluk, Trichy District had not chosen to pass any order till date. Even the Assembly Election was over on 19.05.2016, till date, there is no positive or fruitful result yielded to the petitioner/Durgah. Therefore, the petitioner/Durgah has filed the present writ petition before this Court seeking to implement the order passed by this court in W.P.(MD).No.8419 of 2015, dated 04.06.2015.

10.At this stage, the Learned Additional Government Pleader for the respondents 1 to 4, fairly submits that the 4th respondent/Tahsildar, Mannachanallur Taluk, Trichy District, in the subject matter in issue, will pass necessary orders, of course, within the time to be specified/determined by this Court. Hence, this Court directs the fourth respondent/Tahsildar, Mannachanallur Taluk, Trichy District to look into the subject matter in issue, without any further loss of time or to precipitate the matter any further and to take necessary steps to implement the order passed by this court in W.P.(MD).No.8419 of 2015, dated 04.06.2015 and to pass a final order as per enquiry conducted by him on 16.10.2015 (for issuance of ryotwari patta to his land situated in S.F.No.208 of Samayapuram Village, Mannachanallur Taluk, Trichy District), within a period of five weeks from the date of receipt of copy of this order.



11. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/
Assistant Registrar(CS-II)

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Sub Assistant Registrar

To

1. The Settlement Officer,
O/O. The Commissioner and Director of Survey and Settlement
Chepauk, Chennai.
2. The Assistant Settlement Officer (North)
O/o. Survey and Settlement
Chepauk, Chennai.
3. The District Collector,
State of Tamil Nadu,
Trichy District,
Trichy.
4. The Tahsildar,
Mannachanallur Taluk,
Trichy District.

+1cc to Mr. M. Vinoth Singh Misra, Advocate in SR.No.41390
+1cc to Special Government Pleader in SR.No.41884

W.P (MD) No.13758 of 2016
02.08.2016

vs

PA/GSV-PM/SAR III/04.08.2016/4P/7C