



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.09.2016

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.(MD) No.8755 of 2011 and
MP(MD)No.1 of 2011

S.Narayanan

... Petitioner

vs.

1. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aranthangi.

2. The Tahsildar
Aranthangi Taluk,
Pudukkottai District.

3.V.Karuppiah

... Respondents

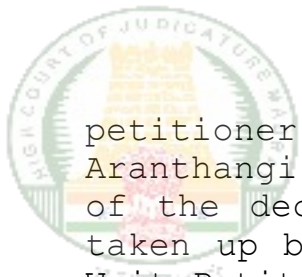
Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent herein to issue patta and effect mutation of revenue records in favour of petitioner for the land measuring 0.06.5 Ares in S.No.41/3A situated in Kandichangadu, Aranthangi Taluk, Pudukkottai District, as per the decree, dated 17.11.2009 in O.S.No.59 of 2005 on the file of the District Munsif Court, Aranthangi.

For Petitioner : Mr.C.Padmaraj
For Respondents : Mr.M.Murugan for R1 & R2
Government Advocate

Mr.R.Jegadeeswaran for
Mr.K.Balasundaram for R3

O R D E R

The petitioner filed a suit before the District Munsif, Aranthangi, against the third respondent in O.S.No.59 of 2005 for declaration and injunction in respect of the property in S.No.41/3A situated in Kandichangadu, Aranthangi Taluk, Pudukkottai District. The suit was decreed by judgment and decree, dated 17.11.2009, by the District Munsif, Aranthangi. The



petitioner thereafter, filed an application to the Tahsildar, Aranthangi, on 18.04.2011 for mutation of records on the strength of the decree, dated 17.11.2009. Since follow up action was not taken up by the respondents, the petitioner has come up with this Writ Petition.

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2. The learned counsel for the third respondent submitted that the judgment and decree passed by the Trial Court is the subject matter of first appeal before the Sub Court, Pudukkottai in A.S.No.99 of 2010. According to the learned counsel, only after the disposal of the appeal, action can be taken by the Tahsildar for mutation of records.

3. There is no dispute that a decree in favour of the petitioner was passed in O.S.No.59 of 2005 by the District Munsif, Aranthangi. It is also not in dispute that the third respondent has challenged the decree before the First Appellate Court in A.S.No.99 of 2010. The fact remains that there is no stay of the judgment and decree passed by the Trial Court. Mere pendency of the appeal would not operate as an interim stay of the decree. The petitioner is perfectly correct in his submission that even after a period of six years, the Thasildar has not taken any action for mutation.

4. This Court has to balance the equity in a matter of this nature. The third respondent has already filed an appeal before the Appellate Court. The third respondent cannot be punished on account of the delay in the disposal of the matter.

5. The Thasildar, Aranthangi, the second respondent herein, is directed to process the application submitted by the petitioner for mutation of records with notice to the third respondent. The third respondent shall be given four months time either to get a decree from the first appellate Court or to get an interim stay of the judgement and decree, dated 17.11.2009 in O.S.No.59 of 2005. In case, the third respondent, is not in a position to obtain favourable orders from the I Appellate Court, necessarily the application filed by the petitioner for mutation shall be processed and disposed of by the second respondent on merits and as per law.

6. The Writ Petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



1. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aranthangi.

2. The Tahsildar
Aranthangi Taluk,
Pudukkottai District.

+ 1 CC TO Mr.K.BALASUNDARAM, ADVOCATE IN SR No. 49512
+ 1 CC TO Mr.C.PADMARAJ, ADVOCATE IN SR No. 49418
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50160

JIKR
TE/SS-2 : 06/10/2016 : 3P/6C

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and
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