

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE M.SUNDAR

Rev.Aplw.No.689 of 2017
and W.M.P.No.32100 of 2017

R.Veerappan
S/o.Ramasamy
Former Panchayat Union Councillor
Kattur Reddipatti,
Periyerpatti Village,
OO.Maramangalam (Post)
Omalur Taluk, Salem - 636 503. ... Petitioner

-vs-

- 1.The District Collector,
Salem District, Salem.
- 2.The Revenue Divisional Officer,
Mettur Taluk, Mettur,
Salem District.
- 3.The Tahsildar,
Omalur Taluk,
Omalur, Salem District. ... Respondents

Prayer: Review Petition filed under Order 47 Rule 1 r/w. Section 114 of CPC against the order dated 06.10.2017 made in W.P.No.26112 of 2017.

W.P.No.26112 of 2017:

Petition praying to issue a Writ of Mandamus forbearing the respondents or their subordinates from granting house site patta to the individuals in a water course poramboke land comprised in Survey No.109/4B 4C and 4 D situate at Tholasampatti T.Maramangalam Omalur Taluk Salem District.

For Petitioner : Mr.C.Prabakaran
For Respondents : Mr.R.P.Prathap Singh
Government Advocate

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

This review application has been filed to review the order and direction issued in W.P.No.26112 of 2017 dated 06.10.2017.

2.The petitioner filed the writ petition as a Public Interest Litigation to forbear the respondents from granting house site patta to the individuals in a water course poramboke land comprised in Survey No.109/4B, 4C and 4D situated at Tholasampatti, T.Maramangalam, Omalur Taluk, Salem District.

3.The writ petition was disposed of by the impugned order by issuing the following directions:

"10.Therefore, there shall be directions as follows:

- i. With regard to Survey No.109/4B, in Tholasampatti, T.Maramangalam, Omalur Taluk, Salem District, which is admittedly a water body, no patta shall be issued to any individual.
- ii. With regard to Survey No.109/4C, if pattas are issued to individuals, the same shall be done after following due process of law and issued only to eligible individuals and such patta shall be issued only with regard to that portion of Survey No.109/4C, which has been classified as "Tharisu". In other words, that portion of Survey No.109/4C which is classified as water body will be one where no patta shall be issued.
- iii. With regard to Survey No.109/4D, as the entire extent of 64 Hectares has been classified as "Tharisu", if at all pattas are issued to individuals, the same shall be done after following due process of law and issued only to eligible individuals."

4.The learned counsel for the review petitioner submitted that Survey No.109/4D is also a part of the water body classified as Odai (stream) poramboke land and the entire extent of Survey No.109/4D is 1.71 acres is equal to 0.69.5 hectare only. It is submitted that the instructions given by the learned Additional Government Pleader who appeared before the Court is incorrect since it has stated that the extent of Survey No.109/4D is about 64.0 acres and is classified as "Tharisu". Further, it is submitted that in the middle of Survey No.109/4D, there is a stream and therefore, the land is not viable for grant of patta for landless persons.

5.In our considered view, these disputed questions of fact cannot be adjudicated by us. Nevertheless, the respondents are bound to ensure that no patta is granted in a water body or adjoining a water body which would in any manner affect the water course. It does not matter whether there is a water in the land which is classified as water body, there is a duty on the part of the respondents to protect the said lands as per their classification. Since it is alleged that there is a discrepancy in the total extent of land classified as "Tharisu" is unsuitable for grant of patta, etc, we direct the District Collector, Salem to take note of the objections raised by the petitioner with regard to the extent of the land, suitability of the land and take a conscious decision on merits and in accordance with law. The above direction be implemented within a period of eight weeks from the date of receipt of a copy of this order.

6.The review application is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

- 1.The District Collector,
Salem District, Salem.
- 2.The Revenue Divisional Officer,
Mettur Taluk, Mettur,
Salem District.
- 3.The Tahsildar,
Omalur Taluk,
Omalur, Salem District

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SSI(CO)
SP(10/04/2019)