

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.3701 of 2017

N.Karunakaran

... Petitioner

vs.

1. The State Government,
rep. by its Secretary,
Department of Revenue,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Director of Land Reforms,
Tamil Nadu State Bhoodan Yagna Board,
Ezhilagam, Chepuak,
Chennai 600 005.
3. The Collector,
Thiruvallur District,
Thiruvallur.
4. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.
5. The Assistant Commissioner,
Land Reforms,
Ezhilagam, Chempauk,
Chennai 600 005.
6. The Tahsildar,
Poonamalee Taluk,
Poonamalee,
Chennai 600 056.
7. The Sub Registrar,
Avadi Sub Registrar Office,
Chennai.
8. A.Krishnan
9. A.Venkatesan
10. E.Sambath
11. E.Murugesan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records, relating to the order dated 05.01.2017 in Proceedings Na.Ka.No.14701/2016/LR2 by the 3rd respondent and quash the same as illegal and arbitrary and consequently direct the 6th respondent not to dispossess the petitioner in the schedule mentioned property.

For Petitioner : Mr.R.Venkatasubramaniam
For Respondents 1 to 7 : Mr.S.Rajeswaran,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order dated 05.01.2017 passed by the 3rd respondent vide Proceedings Na.Ka.No.14701/2016/LR2 and for a consequential direction to the 6th respondent not to dispossess him in the schedule mentioned property.

2. According to the petitioner, he purchased the schedule mentioned property for a valuable consideration from 10th and 11th respondents by way of a Sale Deed dated 19.01.2007, registered under Document No.546 of 2007 on the file of the Sub-Registrar, Avadi and is in continuous possession and enjoyment of the property. It is the case of the petitioner that after a lapse of eight years, the 8th respondent claiming to be the legal heir of one Annaswamy, made a representation to the 5th respondent and contended that Annaswamy was granted 1.13 acres in Survey No.402/1D2, Kuthampakkam Village, by way of Boomi Dhanam Scheme, dated 23.07.1963. He filed a Writ Petition in W.P.No.26549 of 2015 before this Court and by an order dated 26.08.2015, this Court disposed of the said Writ Petition.

3. Pursuant thereto, the 3rd respondent herein conducted an enquiry on 09.08.2016 and 15.08.2016 and passed an order on 05.01.2017, due to which the petitioner is put to great hardship. Hence, challenging the same, he is before this Court.

4. After some elaborate arguments, learned counsel for the petitioner submitted that the petitioner is a bonafide purchaser of the land in question and that too without notice of the Tamil Nadu Bhoodan Yagna Act, hence, now he only seeks to modify the prayer. According to him, under Section 17-A of the Tamil Nadu Bhoodan Yagna Act, there is a provision for grant of alternative land, which can be offered in the place of the original land allotted to the donee and therefore, the petitioner is prepared to offer another land, for which he wants to make an application and on filing of such application, he now seeks a direction to the authorities concerned to consider his case in the light of Section 17-A of the Act.

5. Learned Special Government Pleader appearing for the official respondents contended that the impugned order has become final.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. For better appreciation of the case, Section 17-A of the Tamil Nadu Bhoodan Yagna Act, 1958 is extracted hereunder:

"17-A. Permission to exchange the donated land - Notwithstanding anything contained in this Act, the Government may, if the circumstances so warrant, permit the exchange of the land already donated to, and vested in, the State Board, with an alternate land, by the donor or his legal heirs, as the case may be, in such manner as may be prescribed, subject to the following conditions, namely:

(a) the alternate land shall be of equivalent value;

(b) there shall be no encumbrance on the alternate land;

(c) the donor or his legal heirs shall be competent to transfer such alternate land;

(d) there shall not be any arrear of land revenue or tax or any amount due to the Government or other authority;

(e) the land already donated had not been assigned to any person or authority under this Act."

8. Now that the petitioner is not insisting on challenging the impugned order and that he only pleads to consider his representation, so as to enable him to give alternative land as per Section 17-A of the Act, without expressing any opinion on the merits of this case, this Court directs the petitioner to make an application to the 3rd respondent, as regards giving alternative site under Section 17-A of the Act, within 15 days from the date of receipt of a copy of this order, and if such an application is made, the 3rd respondent may consider the same on merits and in accordance with law and pass necessary orders after giving an opportunity of hearing to the petitioner.

This Writ Petition is disposed of with the above direction.
No costs. Consequently, connected W.M.P.No.3749 & 3750 of 2017
are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

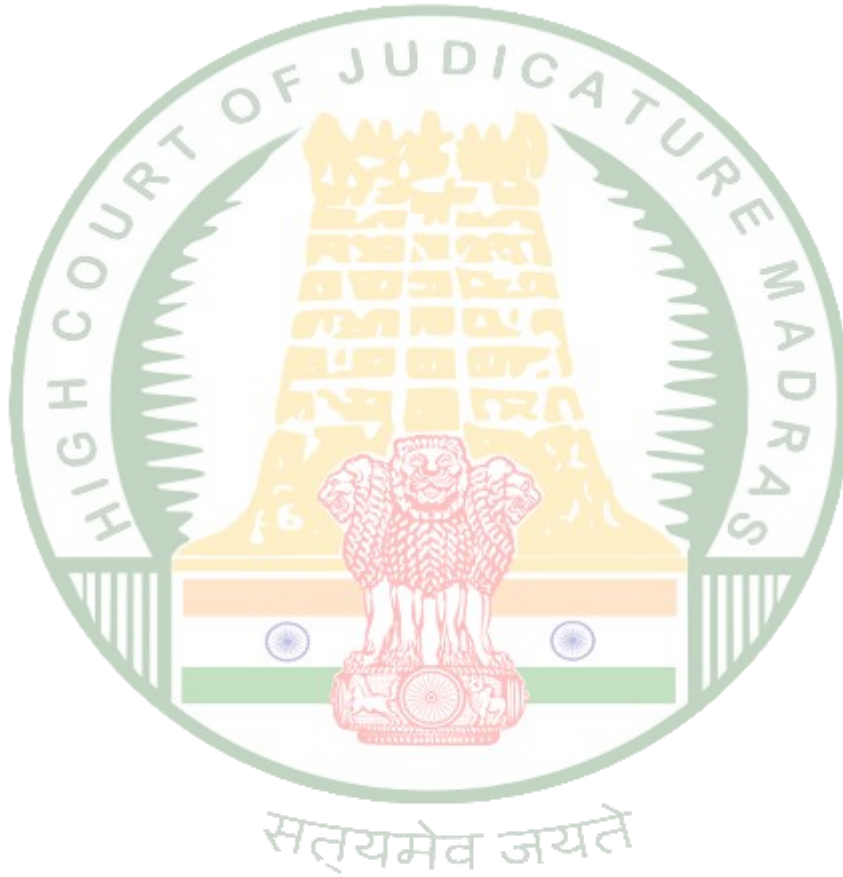
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Avadi Sub Registrar Office,
Chennai.

+3cc to Mr.K. Venkatasubramanian, Advocate, S.R.No.9658
+1cc to the Government Pleader, S.R.No.10223

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md(17/02/2017)

W.P.No.3701 of 2017



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