

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 26.04.2017
Coram

The Hon'ble Mr.Justice S.M.Subramaniam

Writ Petition No.4606 of 2013
and
M.P.Nos.1 and 2 of 2013

Rajammal

...petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by The Secretary,
Revenue Department,
Fort. St. George,
Chennai - 600 009.
2. The District Collector,
Salem.
3. The District Revenue Officer
Salem District.
4. The Revenue Divisional Officer
Salem.
5. The Tahsildar,
Yercaud, Salem District.
6. The Deputy Director
Agricultural Department (Horticulture)
Salem.
7. The Asst. Director
Agricultural Department (Horticulture)
Yercaud,
Salem District.
8. The Block Development Officer
Yercaud Panchayat Union, Yercaud
Salem District.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for entire records relating to the proceedings in Na.Ka.No.2188/2012/B dated 06.11.2012 from the file of the 5th Respondent, namely, The Tahsildar, Yercaud, and to quash the same, and further, to direct the respondents to assign the lands, which is the subject matter of the suit in O.S.No.969 of 1993, on the file of the Principal District Munsiff Court, Salem.

For Petitioner : Mr.D.Shivakumaran

For Respondents 1 to 7 : Mr.A.Zakkir Hussain
Government Advocate

For Respondent -8 : No Appearance

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel for the respondents 1 to 7, and perused the materials placed on record.

2. The relief, sought for in this Writ Petition is at large. More specifically, for a direction to assign the land, which is the subject matter of the suit in O.S.No.969 of 1993. Further, the rejection order passed by the fifth respondent/Tahsildar, Salem District, is also under challenge in this Writ Petition.

3. It is an admitted fact that the land belongs to the Government, and the petitioner seeks assignment of a portion of the land, which is classified as "Poramboke Land". The petitioner claims that, out of 7.40 acres of the government poramboke land, comprised in S.No.8 of Yercaud Town, she seek for assignment of 2.41 acres in her favour. In respect of her claim, a suit was filed in O.S.No.969 of 1993, praying for the relief of injunction, which was decreed in her favour by the Trial Court, vide judgment and decree, dated 31.08.1995, and the First Appeal filed by the Government, in A.S.No.25 of 1996 was dismissed. Relying upon the judgment and decree rendered in the Suit, the petitioner claim that she is entitled for assignment of 2.41 acres of the said Poramboke land.

4. The learned Government Pleader for the respondents 1 to 7, while reiterating the averments made in the counter affidavit filed by the fifth respondent/Tahsildar, has submitted that the claim made by the petitioner cannot be accepted on the ground that the same was already rejected by the Tahsildar,

Yercaud, vide proceedings, dated 06.12.2012, in ROC.No.2188/2012/B, and the said order was challenged by the petitioner, by filing a Writ Petition before this Court, in W.P.No.11304 of 2013, wherein, an order was passed on 22.04.2013, directing the Tahsildar, Yercaud, to consider the representation, dated 06.03.2013, made for grant of patta. Pursuant to the direction issued by this Court, in the aforementioned Writ Petition, the said representation was considered and an order was passed by the Tahsildar, in R.O.C. No.333/B/13/I, dated 09.10.2013, thereby, rejecting the request for grant of patta, as, at that point of time, the Government, in order to protect the environment, hill atmosphere, plantations and climate etc., imposed a ban for issuance of patta, more specifically, in the hill areas vide G.O.Ms.No.1168 of Revenue Department, dated 25.07.1989. Not satisfied with that, the petitioner has moved the present the Writ Petition with a claim seeking assignment.

5. Admittedly, the land, which is stated to be in possession and enjoyment of the petitioner, is situate in an hill area, and as per the order passed by the Government, vide G.O.Ms.No.1168, dated 25.07.1989, there is a ban for assignment of any land in the Hill area. Such being the object for issuing such an order by the Government, the claim of the petitioner, seeking assignment of the land in the hill area, cannot be considered. Further, on a perusal of the impugned order passed by the Tahsildar, Yercaud, vide proceedings, dated 06.11.2012, it is clear that the Tahsildar after carefully taking note of all these aspects, and taking into account that there is a prohibition for grant of patta in respect of the land situate in the hill area, rightly rejected the request made by the petitioner. Such being the factum of the case, this Court is not inclined to interfere with the order passed by the fifth respondent/Tahsildar.

6. In the result, the Writ Petition is dismissed, as being devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Revenue Department,
Fort. St. George, Chennai - 600 009.
2. The District Collector,
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Salem District.

+1 cc to M/s.D.Shivakumaran Advocate sr 25851

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