

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 25095 of 2013
and
M.P.No.1 of 2013

S. Kandasamy

..Petitioner

Vs.

1. The District Collector
Erode District
Erode.

2. The Revenue Divisional Officer
Erode.

3. The Tahsildar
Erode Taluk Office
Erode -1.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders on merits by disposing the written representation made by the petitioner on 03.08.2013 by taking note of the order passed by this Court in S.A. No.1555 of 1998 dated 17.05.2012 within a stipulated time as fixed by this Court and pass such further orders.

For Petitioner : Mr. T.E. Badrinathan
for Mr. C. Prakasam

For Respondents : Mr. A. Raja Perumal,
Addl. Government Pleader

O R D E R

The petitioner has filed the present writ petition, seeking to direct the 1st respondent to consider and pass orders on merits, his written representation dated 03.08.2013, by taking note of the order passed by this Court in S.A. No.1555 of 1998 dated 17.05.2012, within a stipulated time.

2. Learned counsel for the petitioner would submit that the petitioner is an agriculturist and is cultivating his land situated in R.S. No.432/6B, Nasiyanur Village, Erode District, which is an ancestral property and acquired by him as per the partition deed dated 30.06.1984. The petitioner and his adjacent land owner Nagathal, were using the common pathway on the southern side of his land, for more than five decades. Since a dispute arose in using the pathway, the said Nagathal filed a civil suit in O.S.No.886 of 1993 before the District Munsif Court, Erode. Although the suit was dismissed, on appeal the decree was reversed by the I Additional District Judge, Erode in A.S. No.83 of 1997. The said order was challenged before this Court in S.A.No.1555 of 1998 but the same was dismissed. Thereby, the right claimed by the petitioner and his neighbour Nagathal, with respect to the usage of common pathway was confirmed. It is the grievance of the petitioner that notwithstanding the decree passed by the Appellate Court as confirmed by this Court, the respondents are taking hectic steps to give patta for the entire property in R.S. No.431 Nasiyanur Village, including the common pathway. Therefore, the petitioner submitted a representation to the respondents on 03.08.2013, requesting not to grant patta in favour of private parties. The said representation has not been considered by the 1st respondent. Aggrieved by the inaction of the respondents, the petitioner has filed this writ petition, seeking the aforesaid prayer.

3. Learned Additional Government Pleader appearing for the respondents submitted that an order of interim injunction restraining the respondents from interfering with the enjoyment of the common pathway by the petitioner, was granted by this Court on 05.09.2013. In view of the same, the petitioner is using the common pathway. However, if the representation of the petitioner is still pending before the respondents, the same would be disposed of, in accordance with law.

4. Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

5. Taking into consideration the facts and circumstances of the case, since the representation dated 03.08.2013 has not been disposed of till date, the 3rd respondent is directed to dispose of the representation of the petitioner on merits and in accordance with law, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner shall also submit a copy of the representation along with this order copy.

6. The writ petition is disposed of, on the above terms. Consequently, the connected M.P is closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The District Collector
Erode District, Erode.

2.The Revenue Divisional Officer
Erode.

3.The Tahsildar
Erode Taluk Office, Erode -1.

+1cc to Mr.C. Prakasam, Advocate Sr. 7041

+1cc to the Government Pleader Sr. 6927

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SCD(CO)
VR(03/04/2017)

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