

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.35797 of 2003
and
W.P.M.P.No.43503 of 2003

R.Chellachami

.. Petitioner

Vs.

1. The District Collector, Ramnad District.
2. The Tahsildar, Mudukulathur, Ramnad District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the second respondent made in Moo.Moo.E.1.5519/2003, dated 20.11.2003 and quash the same and consequently forbear the respondents from in any way interfering with the possession and enjoyment of the property of the petitioner situate in Survey No.99/1 of an extent of 0.54.5 hectares in Puliur Village, Mudukulathur Taluk, Ramnad District, by any process even by invoking the Tamil Nadu Act 31 of 1978.

For Petitioner : Mr.D.Peter Francis

For Respondents : Mr.Akhil Akbar Ali, Govt. Advocate

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the second respondent made in Moo.Moo.E.1.5519/2003, dated 20.11.2003 and quash the same and consequently forbear the respondents from in any way interfering with the possession and enjoyment of the property of the petitioner situate in Survey No.99/1 of an extent of 0.54.5 hectares in Puliur Village, Mudukulathur Taluk, Ramnad District, by any process even by invoking the Tamil Nadu Act 31 of 1978.

2. The case of the petitioner is that he belongs to Scheduled Caste community and he is the owner of the property in question, for which patta was initially issued and thereafter, it was cancelled. Initially, the property was owned by three

persons, as could be seen from patta, dated 28.08.1995 and it has been decided to include the name of the petitioner. Since the land has been sought to be acquired for the welfare of Adi Dravidars, Notification under Section 4(1) of the Land Acquisition Act was issued on 05.10.1993 and thereafter, it culminated into issuance of Declaration under Section 6 of the said Act on 20.12.1994. In the Writ Petition filed by the petitioner earlier, this Court allowed W.P.No.1782 of 1995 on 21.11.1995, quashed the impugned Notification under Section 4(1) of the said Act and Section 6 thereunder, dated 05.10.1993 and 20.12.1994 respectively. After the disposal of the said Writ Petition, the petitioner requested that he may be granted patta, but in view of the observations made by this Court in the said W.P., the issue in question was left open for recovery of the land by issuing fresh Notification under the Tamil Nadu Act 31 of 1978. The Government has decided not to acquire the land, as the petitioner belonged to the said S.C. community for whose purpose the land was sought to be acquired. But unfortunately, according to the petitioner, even after such a decision, the patta was not transferred in his name, as originally, the patta was issued with respect to the land in question in his name, but it was cancelled by the impugned order, dated 20.11.2003.

3. The respondents have filed counter affidavit accepting the contentions of the petitioner and the relevant paragraphs 4 and 5 of the counter are extracted hereunder:

"4. It is submitted that the petitioner has given a petition to this office stating that the Hon'ble High Court has passed an order in his favour and that he has dug-up a 'Bore Well' at S.No.99/1 at Puliyangudi Village and that he hails from an Adi-Dravidar family and that therefore the land in question should not be acquired and that he has been in possession and enjoyment of the above land, ever since the date of his purchase, and that therefore, the said land should not be acquired. On that basis, an inspection of the land in question was made by the officials, and found that the petitioner has cultivated Chillies therein. Hence, the land in dispute has been under the possession/enjoyment of the petitioner herein.

Since the petitioner is belonging to a Scheduled Caste family and being a Scheduled Caste man, his lands are not in a position to be acquired by us. Further the petitioner has put-up/dug-up a 'Bore Well' to the depth of 300 Ft. in the above land during the one year period.

5. With regard to the averments made in para 7 of the affidavit it is submitted that as per the orders of the District Adi-Dravidar Welfare Officer, Ramanathapuram, and as per the proceedings of this Office Letter No.Pa.Mu.583/3, dated 31.12.1998, since

the petitioner is coming from a Scheduled Caste and on the basis of the judgment of this Hon'ble High Court, the land in question has been exempted from acquisition and accordingly, the same has been conveyed to the above said petitioner herein. Therefore this respondent has got no other comments over the above matter."

4. From the above extracted paragraphs in the counter affidavit, it is clear that the Government has decided not to acquire the land and that the land has been exempted from acquisition and the same has also been conveyed to the petitioner herein.

5. As there is no hurdle for the respondents to issue patta in the name of the petitioner for the land in question, the respondents are directed to issue the patta in the name of the petitioner, provided there is no acquisition of the said land and if the petitioner establishes his right by producing a copy of the sale deed to show that he is the owner of the land/property, as no sale deed is produced before this Court, except an averment made in the affidavit filed in support of the Writ Petition that the petitioner has purchased the property after the agreement of sale. The entire exercise of issuing patta in the name of the petitioner shall be completed within a period of one month from the date of production of records by the petitioner as required by the respondents.

6. With the above observations and direction, the Writ Petition is disposed of. No costs. W.P.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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Copy to

1. The District Collector, Ramnad District.
2. The Tahsildar, Mudukulathur, Ramnad District.

+lcc to MR.P.Solomon Francis, Advocate SR.No.52192
+lcc to Government Pleader SR.No.53288

W.P.No.35797 of 2003

VGI(CO)
GN(10/08/2017)