

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Writ Petition No.14838 of 2018
and W.M.P.No.17571 of 2018

P.Rangasamy

... Petitioner

-vs-

1.The District Collector,
Collectorate Complex,
Coimbatore-641 018,
Coimbatore District.

2.The Tahsildar,
Dr.Balasundaram Road,
Coimbatore North Taluk,
Coimbatore-641 018.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 21.12.2017 to grant patta in respect of 97 cents bearing S.F.No.540/2 of Chinna Thadagam Village, Coimbatore District, for compensating the loss caused to him for taking over his patta lands measuring 65 cents and 90 cents bearing S.F.Nos.725 and 732 of Veerapandi Village, Coimbatore District.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader

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O R D E R

[Order of the Court was made by M.Sathyanarayanan, J.]

By consent, this writ petition is taken up for final disposal.

2. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of respondents 1 and 2.

3. The petitioner in the affidavit filed in support of the writ petition would aver among other things that his mother Tmt.Umathurammal, was the owner of the properties comprised in S.F.No.725 of Veerapandi Village and S.No.543 of Chinna Thadagam Village, Coimbatore District to a specific extent and she executed a registered Settlement Deed bearing Doc.No.535 of 1965 dated 23.06.1965 in respect of 2.26 acres comprised in S.F.No.543, of Chinna Thadagam Village and 4.58 acres comprised in S.F.No.725 of Veerapandi Village, Coimbatore. Similarly, his father, viz., Thiru Ponnusamy Gowder was the owner of the properties admeasuring to an extent of 8.71 acres comprised in S.F.No.732 of Veerapandi Village.

4. The petitioner would further submit that after his father's demise, he has become the owner of the said property and also the part of the property settled in his favour as stated above. The petitioner would further aver that about 45 years ago, the Land Acquisition Authorities, without following the provisions of the Land Acquisition Act, 2013, had acquired his lands admeasuring to an extent of 65 cents comprised in S.F.No.725 of Veerapandi Village for the purpose of formation of road and also acquired lands admeasuring to an extent of 90 cents comprised in S.F.No.732 in the very same village for the purpose of formation of a small water body (Kuttai) to store the rain water and since the petitioner being an uneducated and rustic villager, is yet to be conversant with the intricacies of law to protect his property and in view of the fact that the respondents had permitted him to occupy the poramboke land admeasuring to an extent of 97 cents in S.No.540/2, had occupied the same and is in possession and enjoyment of the same.

5. It is also the claim of the petitioner that the revenue records relating to S.F.Nos.725 and 732 of Veerapandi Village continued to remain in his name and despite the exchange of lands, the respondents are yet to give patta in respect of S.F.No.540/2. It is also stated by the petitioner that a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, dated 02.06.2017, was issued to the petitioner alleging encroachment of 0.05.0 ares in S.F.No.540/2 with a classification "Itteri". However, no further action has been taken, despite lapse of nearly one year. The petitioner also applied for issuance of patta in respect of lands admeasuring to an extent of 97 cents in S.F.No.540/2 of Chinna Thadagam Village, Coimbatore and since no progress took place, he has submitted a representation dated 21.12.2017 to the first respondent and the office of the first respondent has sent a memo dated 23.02.2018 in X/K.75/2018/M1 to the second respondent

for an appropriate action and it is also followed by one more memo dated 13.04.2018 in X/K/6418/2018/M1 and despite the receipt of the communications, the second respondent is yet to process the application / representation submitted by the petitioner for issuance of patta and therefore, he is constrained to approach this Court by filing this writ petition.

6. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader would submit that with regard to the alleged acquisition of lands for formation of road and water body and the corresponding exchange of the lands in S.F.No.540/2 of Chinna Thadagam Village, the petitioner, admittedly, has not produced any material to substantiate his case and also pointed out that action has already been initiated against the petitioner as per the provisions of the Tamil Nadu Land Encroachment Act, 1905, by issuing a notice under Section 7 of the Said Act and the representation submitted by the petitioner for issuance of patta in the light of the two communications sent by the 1st respondent, would be considered and disposed of at an early date.

7. This Court, taking into consideration the facts and circumstances and the rival submissions and also without going into the merits of the claim projected by the petitioner, directs the second respondent to act on the communications, issued by the office of the first respondent dated 23.02.2018 and 13.04.2018 in X/K.75/2018/M1 and in X/K/6418/2018/M1 respectively and after putting the concerned persons on notice, shall consider and dispose of the petitioner's representation on merits and in accordance with law within a period of 10 weeks' from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as the persons concerned.

8. The writ petition is disposed of, with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr/sk

To

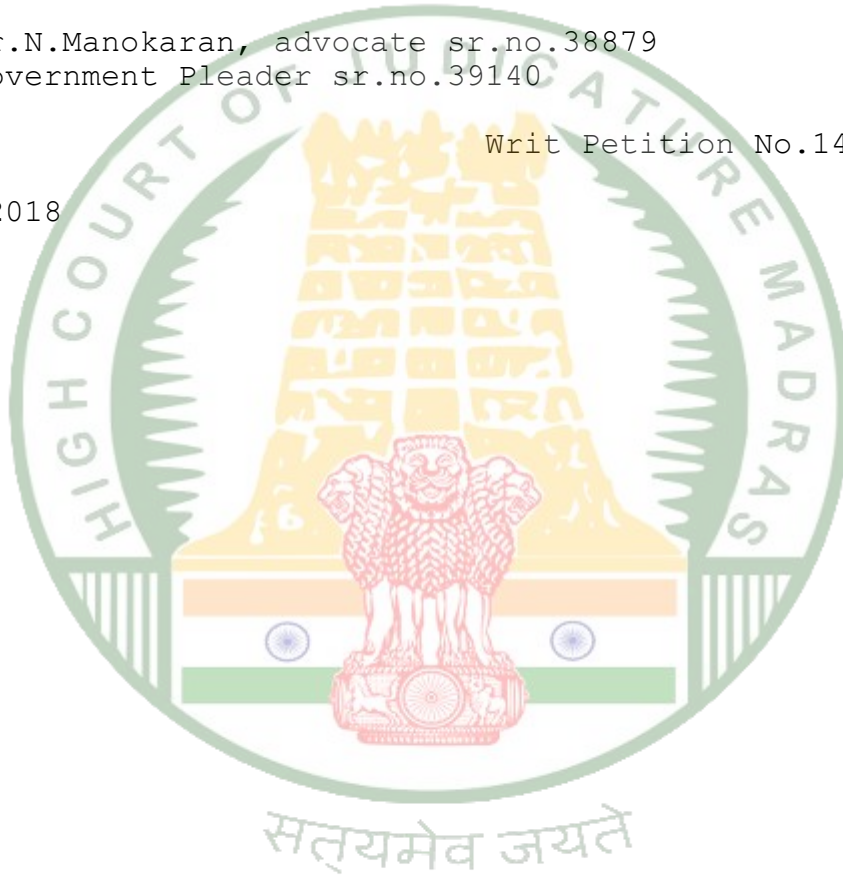
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Coimbatore-641 018.

+lcc to Mr.N.Manokaran, advocate sr.no.38879
+lcc to Government Pleader sr.no.39140

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nr 25/07/2018



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