

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.24705 of 2014

T.Joseph Newton

... Petitioner

-Versus-

1.The District Collector,
Vellore District.
Vellore.

2.The Tahsildar,
Arakkonam,
Vellore District,
Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari fied Mandamus calling for the records of the 2nd respondent relating to the order dated 18.08.2014 in Na.Ka.B2/7513/2014 and to quash the same and for a consequential direction to the 2nd respondent to issue patta to the petitioner in respect of the land measuring extent of 0.92 cents comprised in S.No.140/3 of Kizhakuppam village No.86 of Arakkonam Taluk, Vellore District.

For Petitioner : Mr.L.Chandrakumar for
Mr.M.Gnanasekar

For Respondents : Mr.V.Prabhu, GA for R1
and R2

ORDER

This writ petition has been filed challenging the validity of the order dated 18.08.2014 passed by the 2nd respondent in Na.Ka.B2/7513/2014 and for a consequential direction to the 2nd respondent for issuance of patta in favour of the petitioner in respect of the land measuring extent of 0.92 cents comprised in S.No.140/3 of Kizhakuppam village No.86 of Arakkonam Taluk, Vellore District.

2. According to the petitioner, originally his father was in

possession and enjoyment of the land in question which is an unassessed land. Thereafter, according to the petitioner, he continued to be in possession and enjoyment of the same for more than 20 years and B-Memo was also issued to that effect. The village panchayat had also passed a resolution in the year 1980 and 1998 recommending for the grant of patta in favour of the petitioner. While so, in the year 2012, the respondents had taken steps to evict the petitioner and hence he was constrained to file a writ petition in W.P.No.5155 of 2012 for issuance of patta and this court, after having considered the issue, by order dated 07.03.2012, directed the petitioner to produce the relevant materials in support of his claim so as to enable the 2nd respondent to consider the request for issuance of patta and to pass appropriate orders on merits and in accordance with law. The 2nd respondent was also directed to afford an opportunity of personal hearing to the petitioner. Pursuant to the orders of this court, the impugned order came to be passed rejecting the application of the petitioner for grant of patta on the ground that the petitioner has been working as Assistant in a Government School his wife and son have also been working as Noon-Meal Organizer and Teacher respectively in Government Schools and the petitioner family did not belong to below poverty line category so as to get assignment of land. It is the said order which is now under challenge in this writ petition.

3. The 2nd respondent filed a counter affidavit contending that since the petitioner and his family members are in decent employment, they do not fall under the category of "below the poverty line".

4. The learned counsel appearing for the petitioner submitted that the respondents had proceeded to pass the impugned order on the basis the the petitioner had sought for assignment of land on free of cost, but, whereas, the petitioner is ready and willing to get assignment of land on payment of land cost. The grievance of the petitioner is that his representation for assignment of land was not properly considered and as the land in question being unassessed waste poramboke land, there may not be any impediment for the 2nd respondent to consider the application for assignment of land on payment of cost of the land.

5. The learned for the respondents submitted that since the petitioner and his family are not landless poor and they do not fall under the category of below the poverty line so as to get assignment of land even on payment of cost of the land.

6. I have considered the rival submissions carefully.

7. Admittedly, the land in question is unassessed waste poramboke and as such it does not fall within any of the prohibited categories. Therefore, in the considered view of this court, there may not be any impediment for the 2nd respondent in assigning the land to the petitioner on payment of necessary land cost. Having regard to the long possession of the petitioner in the land in question for more than 30 years and the developments made by the petitioner and his family members thereon, this court directs the 2nd respondent to consider the request of the petitioner for assignment of land on payment of necessary land cost. The petitioner is directed to give a fresh representation for assignment of land and in the event any such representation is given, the 2nd respondent shall consider the same in the light of the observations made by this court in this order. While fixing the land cost, the 2nd respondent is directed to take into account the land value as on the date when the impugned order has been passed 2014 and pass appropriate orders as per the Board Standing Orders.

8. In the result, the writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The District Collector, Vellore District. Vellore.

2.The Tahsildar, Arakkonam, Vellore District, Vellore.

+2cc to Mr.M.Gnanasekar, Advocate, S.R.No. 82367

+1cc to the Government Pleader, S.R.No.82939

SSD(CO)
GN(24/01/2019)

W.P.No.24705 of 2014