IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.1776 of 2019
and W.M.P.No.1974 of 2019

P.Tamilarasi .. Petitioner

Vs.

1. The Revenue Divisional Officer,
Sangagiri,
Salem District.

2. The Tahsildar
Sangagiri Taluk,
Sangagiri,
Salem District.

3. Mr.Narayanan .. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider and pass orders on the representation of the petitioner dated 02.12.2018 through which the petitioner sought for the first respondent to conduct the enquiry afresh for removal of the name of the third respondent from the joint Patta No.10 issued in respect of Survey No.40/1B3 measuring about Hectare 0.76.00, of Sangagiri Village, Salem District by affording proper opportunity to the petitioner and pass such further or other orders as this Court may deem fit.

For Petitioner : Mr.K.A.Mariappan
For Respondents 1&2 : Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's representation dated 02.12.2018 seeking to conduct the enquiry afresh for removal of the name of the third respondent from the joint Patta No.10 issued in respect of Survey No.40/1B3, measuring an extent of Hectare 0.76.00, situated in Sangagiri Village, Salem District.

2. Earlier on 12.01.2018, this Court had passed an order in W.P.No.691 of 2018, directing the Tahsildar, Sankagiri Taluk, Salem District to consider the representation of the petitioner dated 14.12.2017 on merits and in accordance with law, after hearing the petitioner, the second respondent therein as well as other interested parties, within a period of twelve weeks from the date of receipt of that order. Though summons were issued and the petitioner herein appeared before the Tahsildar on 23.03.2018, she walked out without submitting any of the documents for hearing or even giving evidence in the midst of enquiry. The first respondent herein has issued a summons to the petitioner once again on 16.07.2018 to appear for an enquiry. It is not known as to whether the petitioner appeared before the officer or not. However, the prayer now sought for is to consider and pass orders on the petitioner's representation dated 02.12.2018, which is addressed to the Tahsildar/the second respondent herein. The Tahsildar had passed an order on 23.03.2018 vide his proceedings in Na.Ka.1607/2017/K, issuing the joint patta. If at all the petitioner is aggrieved by the said order, she should have preferred an appeal before the Revenue Divisional Officer. However, when the Revenue Divisional Officer himself has sent summons for the enquiry, without attending the same, the petitioner is seeking a direction from this Court to conduct a fresh enquiry for removal of the name of the third respondent from the Joint patta.

3. If the petitioner had not appeared before the first respondent for enquiry, despite service of summons, she cannot be allowed to take advantage of her own act and seek a Mandamus from this Court. If the first respondent had not passed any order pursuant to the enquiry dated 16.07.2018 and if he feels that the petitioner may be given an opportunity of hearing, it is open to him to do so. If the first respondent had already passed an order, the petitioner may challenge the same in the manner known to law.

4. With the above said observations, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Revenue Divisional Officer,
   Sangagiri,
   Salem District.

2. The Tahsildar
   Sangagiri Taluka,
   Sangagiri,
   Salem District.

+1 cc to the Government Pleader, S.R.No.8196

W.P. No.1776 of 2019
and W.M.P.No.1974 of 2019

SSM(15/02/2019)