

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.18438 of 2009
and M.P. No.1 of 2009

Ramesh

... Petitioner

-vs-

1.The District Collector, Salem.

2.The Revenue Divisional Officer,
Attur, Salem.

3.The Tahsildar,
Gangavalli Taluk,
Salem District.

4.The Village Administrative Officer,
Goodamalai Village,
Gangavalli Taluk,
Salem District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus forbearing the respondents from putting up godown in Survey No.240, Goodamalai Village, Gangavalli Taluk, Salem District affecting the right assigned to petitioner under Section 2A of the Revenue Standing Order No.15 in respect of the property.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.M.Elumalai,
Government Advocate

ORDER

The petitioner has come to this Court seeking a writ of mandamus forbearing the respondents from putting up godown in Survey No.240, Goodamalai Village, Gangavalli Taluk, Salem District.

2.Learned counsel appearing for the petitioner would submit that the petitioner is a Farmer, doing agricultural work to eke out his livelihood and the said agricultural land has been situated near Gangavalli Thammappatti Main Road, Salem. However, there is a Government Poromboke land to an extent of 0.30.5 ares, lying in S.No.240, Goodamalai Village, in between

the main road and agricultural land. During the year 1979, the second respondent herein assigned the above Government Poromboke land in the said Survey Number to the petitioner's mother Mrs.Thandayee under Section II A of the Revenue Standing Order No.15 and ever since the assignment, his mother has been using the same for cultivation. After the demise of his mother and father, the property was assigned to the petitioner, who was in continuous occupation of the property. While so, on 29.07.2009, the fourth respondent accompanied with his surveyor came to the above property and made measurement thereon. On enquiry, it was found that the government is proposed to put up a godown in the said property. Therefore, the petitioner has come to this Court seeking the above prayer.

3.Counter affidavit has been filed by the third respondent. Mr.Elumalai, learned Government Advocate appearing for the respondents would submit that the petitioner has wrongly pleaded that he has been assigned with the land in question by the respondents, but, there is no assignment order issued at any point of time in favour of the petitioner in respect of the land in question covered in Survey No.240. Since the petitioner is having Punja lands in S.No.198B/5B hector 0.30.5, S.No.199A/1B hector 0.14.0, S.No.199B/1B 0.60.0 in total punja hector 1.04.5 and in Nanja the petitioner is having the land in S.No.231/2B hector 0.24.5, S.No.238/2B hector, 1.10.5 in total 1.35.0 and is having total patta land to the extent of acre 5.92 cents, the petitioner has been considered as a rich pattadar and he comes under the category of landlord. Therefore, when the petitioner is a rich pattadar, the contention made by him that he was assigned with the land is totally unacceptable. Moreover, he has not produced any assignment order.

4.When the petitioner comes to this Court seeking writ of mandamus forbearing the respondents from putting up godown in Survey No.240, Goodamalai Village, Gangavalli Taluk, Salem District on the ground that he has been issued with the assignment order, the petitioner is duty bound to produce the assignment order issued in his favour, but he has not produced the same. The counter affidavit filed by the third respondent shows that the petitioner is a landlord and rich pattadar as found in para 3 above. Therefore, this Court is unable to find any merit in the petition. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected M.P. is closed. No costs.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

vga

To

1.The District Collector,
Salem.

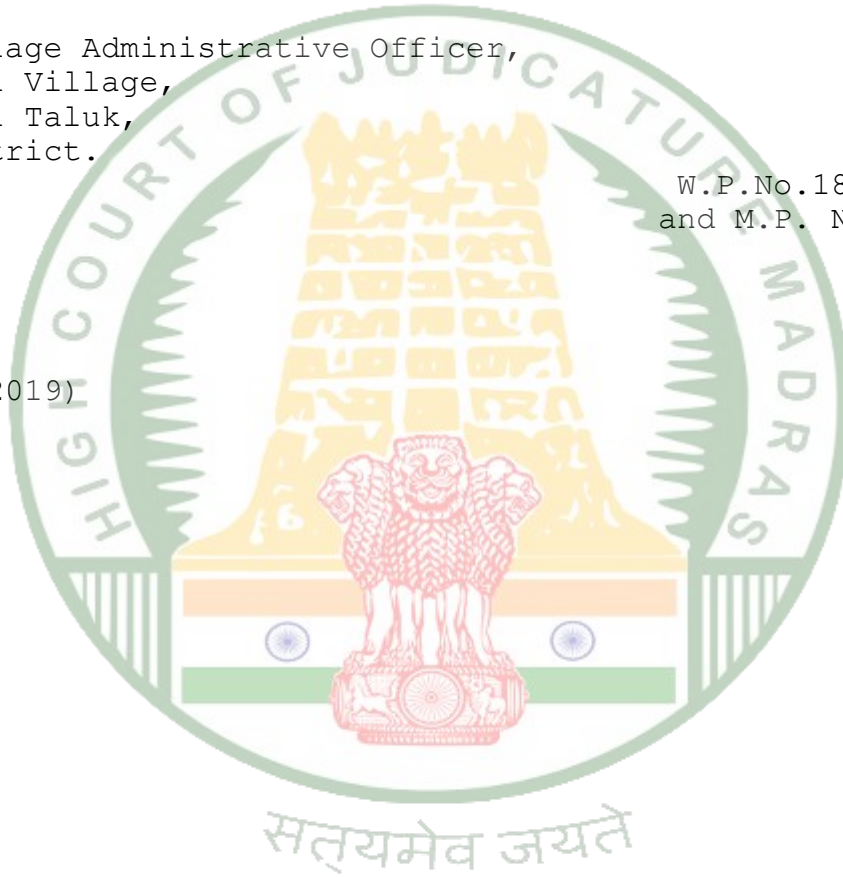
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BR(CO)
GN(03/06/2019)



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