

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16274 of 2010

Mr.Mohan Rajesh,
Proprietor, M/s.Mohanad Estate,
Mangalam, Semmanatham Post,
Yercaud - 636 602.

...Petitioner

Vs.

1. The District Forest Officer,
Salem.
2. The Government of Tamil Nadu,
Rep by its Secretary Government
Revenue Department
3. The Collector,
Salem District.
4. The Special Commissioner,
Land Administration, Ezhilagam,
Chepauk, Chennai.
5. The Commissioner of Land Administration,
The Central Survey Office,
Chepauk, Chennai - 600 005.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records pursuant to order dated 16.06.2010, in Se.Mu order No.3003/98 Sa by the 1st respondent and quash the same as illegal arbitration and violation principles of natural justice.

For Petitioner : Mr.R.R.Pradeep
for M/s.S.Sethuraman

For Respondents : Mr.G.B.Rajesh
Government Advocate

O R D E R

The petitioner has preferred this Petition to quash the order dated 16.06.2010, in Se.Mu order No.3003/98 Sa passed by the 1st respondent.

2. The case of the petitioner is that the petitioner is the owner of the lands in Survey No.25/1 - 3.22 acres, 25/2 - 0.77 acres in Mangalam Village and Lands in Survey Nos.43 measuring 9.28 acres and Survey No.44/3C - measuring 18.05 acres in Solur Village. These lands were originally owned by one Mr.S.M. Hight. Mr.N.M. Hight, who is the son of Mr.S.M.Hight sold the property to the petitioner. The suit for Partition in O.S.No 501 of 1975 was filed in Sub-Court, Salem by Mr.Banumathy Raja, against the father of the petitioner and his brother. In the said suit, judgment were passed in favour of the petitioner as the aforementioned properties in Mangalam and Solur were allotted to the petitioner. Since, then the petitioner is in absolute possession and enjoying the property in question.

3. The learned counsel appearing for the petitioner would submit that apart from coffee plantation there were sandal wood trees and other trees in the said estate. The petitioner has sought the assistance of the 1st respondent to protect the sandal wood trees from the armed anti-social elements. On 24.11.1991, the petitioner handed over 2100 pieces of sandal wood weighting 18510 Kgs to the 1st respondent, District Forest Officer for safe custody. Consequently, 1st respondent also issued transport permits to transport the same and received the same and acknowledged the quantity of the sandal wood handed over to them. Thereafter, the petitioner has requested the 1st respondent to out turn the sandalwood and pay the full market price for the sandal wood handed over to them.

4. The learned counsel appearing for the petitioner would further submit that since the respondents was not passing any order on his claim, the petitioner has filed a W.P.No.16419 of 2009 seeking a direction to pass an order with regard to the sandalwood pieces handed over to Department by him before this Court vide order dated 12.02.2010, this Court directed the 1st Respondent to pass an order on merits with the available records.

5. Pursuant to the said order, the petitioner made a representation dated 23.03.2010 requesting the 1st Respondent to grant a personal hearing before deciding the matter. The respondent without considering the representation and without

going into the facts of the case, has passed the impugned order dated 16.06.2010 rejecting his claim for compensation on the ground that in terms of G.O.1459 (Revenue) dated 19.09.1924 the lands assigned prior to 19.09.1924 the sandal wood trees in the said land alone will be granted for compensation and the petitioner had not produced any document to establish as to when the lands were handed over to them, despite giving sufficient opportunity to petitioner. Hence the petitioner is not entitling any compensation.

6. According to the learned counsel for the petitioner, the impugned order passed by the 1st respondent is illegal and without application of mind. The 1st respondent has failed to verify the records produced by the petitioner to demonstrate as to when the petitioners were in possession of the property and has not considered the material viz., order in O.P.No. 117/1923, of this Court has granted probate of will to establish the fact that the lands are private patta lands even earlier to 1923. While this is so, the respondent has not considered any of the documents produced by the petitioner.

7. The learned counsel appearing for the respondents would submit that at the time of personal enquiry no documents were produced to prove whether the petitioner has entitled to receive the compensation for removal and succeed the Award.

8. Considering the facts and circumstances of the case, while passing the impugned order dated 16.06.2010, no documents were produced to reveal the fact that the petitioner is the original owner of the property in question. However, the petitioner has produced the settlement Register and relevant documents before this Court to prove the same, all those were not discussed by the Original Authority.

9. Hence this Court is inclined to direct the Authority to consider the issue without prejudice. The matter is remanded back for fresh consideration and liberty is granted to the petitioner to file necessary documents before the Authority, namely the 1st respondent. After securing the necessary documents, it is open to the first respondent to pass appropriate orders. It is also made clear that it is open to the first respondent to send all the documents which was submitted by the petitioner to the Revenue Authorities for getting clarification. The entire excise has to be completed on or before 16 weeks from the date of receipt of a copy of this order.

10. Accordingly, the present writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Forest Officer,
Salem.
2. The Government of Tamil Nadu,
Rep by its Secretary Government
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3. The Collector,
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4. The Special Commissioner,
Land Administration, Ezhilagam,
Chepauk, Chennai.
5. The Commissioner of Land Administration,
The Central Survey Office,
Chepauk, Chennai - 600 005.

+1cc to M/s.S.Sethuraman, Advocate SR.70899

+1cc to the Spl Government Pleader (Forest), SR.71841

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EU (CO)
CB(12/12/2019)

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