

In the High Court of Judicature at Madras

Dated : 14.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal No.834 of 2019 & CMP.No.6503 of 2019

A.L.Basker

... Appellant

Vs

1.The Tahsildar, Coimbatore North
Taluk, Coimbatore.

2.The Government of Tamil Nadu, rep.
By its Secretary, Revenue
Department, Fort.St.George,
Chennai-9.

3.The District Collector, Coimbatore
District, Coimbatore.

... Respondents

APPEAL under Clause 15 of the Letters Patent against the
order dated 23.1.2019 passed in W.P.No.36730 of 2006.

Prayer in W.P.No.36730 of 2006:-

Writ Petition filed under Article 226 of the calling for
the records of the respondent in Memo. No. L.Dis. 7797/2006/A2
dated 7.4.2006 and quash the same and directing the respondent
to forthwith effect change of patta in favour of the petitioner
in respect of G.S. No. 280 of Kalappatti Village, Coimbatore
North Taluk, Coimbatore District of an extent of 1.02 acres.

For Appellant : Mr.Kandan Doraisamy

For Respondents : Mr.R.P.Prathap Singh, GA

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.Kandan Doraisamy, learned counsel appearing
for the appellant and Mr.R.P.Prathap Singh, learned Government
Advocate accepting notice for the respondents.

2. This appeal is directed against the order dated 23.1.2019 in W.P.No. 36730 of 2006.

3. The said writ petition was filed by the appellant challenging the proceedings of the first respondent herein dated 07.4.2006, in and by which, the first respondent rejected the request made by the appellant for grant of patta in respect of the property in question on the ground that the property had been assigned subject to certain conditions.

4. Before the learned Single Judge, the appellant raised various contentions as to how he was running an industry and as to how the land in question would serve the appellant so as to enable him to have proper access and development of the industry thereby creating employment opportunity. The learned Single Judge considered the contentions and dismissed the said writ petition by the impugned order.

5. Admittedly, the land, for which, patta was sought for, was a land assigned to the beneficiaries and the question of parting with the land or selling the land or changing the classification or granting of patta in favour of a person, who did not belong to depressed class does not arise. Therefore, we fully agree with the learned Single Judge in dismissing the said writ petition.

6. Mr.Kandan Doraisamy, learned counsel for the appellant submits that the appellant is ready and willing to offer alternate land of equivalent extent or a larger extent and that such a request may be directed to be considered.

7. The said submission was made even before the learned Single Judge and in paragraph 21 of the impugned order, the same has been dealt with in the following terms :

"The contention of the learned counsel for the writ petitioner that the writ petitioner has offered an alternate land in lieu of the assigned land, this Court is of an opinion that such decisions are to be taken at the Government level and this Court cannot issue any direction to accept the offer made by the writ petitioner. It is left open to pursue the proposals/representations, if any, with the Government for appropriate action. Even in such circumstances, it is the prerogative of the Government to take a decision either to accept the offer or to reject the same by assigning reasons. The Court cannot

interfere in such policy decisions to be taken by the Government as the same is the prerogative of the Government to deal with the issues properly and in the manner known to law. Thus, the submissions made by the learned counsel for the writ petitioner that the proposal to accept the alternate land deserves no merit consideration as the decision is to be taken by the Government and this Court cannot offer any findings in that regard."

8. The learned Single Judge, while considering the said submission, observed that the proposal to accept the alternate land deserved no consideration on merits, as the decision had to be taken by the Government and that the Writ Court could not offer any finding in that regard. The observation made by the learned Single Judge is perfectly valid and obviously, the Tahsildar cannot take a decision by accepting the alternate lands in lieu of the land, which is the subject matter of this appeal/writ petition. If at all a decision is to be taken, it is only the Government, which has to take a decision. Therefore, the prayer sought for before us to direct the Government to accept the alternate land offered by the appellant is beyond the scope of the said writ petition. In the light of the same, it is well open to the appellant to work out his remedies before the appropriate forum.

9. In the result, the writ appeal is dismissed with the above observations. No costs. Consequently, the connected CMP is also dismissed.

Sd/-
Assistant Registrar(CS IV)
//True Copy//

Sub Assistant Registrar

To

- 1.The Tahsildar, Coimbatore North Taluk, Coimbatore.
- 2.The Secretary to Government of Tamil Nadu, Revenue Department, Fort.St.George, Chennai-9.
- 3.The District Collector, Coimbatore District, Coimbatore.

+1 cc to The Government Pleader, SR.No.24681

WA.No.834 of 2019 &
CMP.No.6503 of 2019

AD(CO)
CSL/10.04.2019