

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.7229 of 2019

N.Ponsingh

.. Petitioner

Vs.

1.The Commissioner of Land Administration,
Revenue Department,
Ezhilagam, Chempauk,
Chennai - 600 005.

2.P.Ramasamy

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the 1st respondent to provide an opportunity of personal hearing in respect of the proceedings in File No.T1/23733/2017 on the application of the 2nd respondent relating to the land comprised in Survey No.320/2C and 2B situate at Padi Village, Ambattur Taluk, Thiruvallur District and to record the petitioner's objection and thereafter necessary order may be passed on the said enquiry.

For Petitioner : Mr.C.Prabakaran

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) R1

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the 1st respondent to provide an opportunity of personal hearing in respect of the proceedings on the application of the 2nd respondent relating to the land comprised in Survey Nos.320/2C and 2B situated at Padi Village, Ambattur Taluk, Thiruvallur District and to record the petitioner's objection and thereafter to pass necessary orders.

2.It is the case of the petitioner that he purchased various patta lands between the years 1998 and 2001. Since the petitioner required a portion of the land belonging to the Government to reach his patta land, he made an application dated 18.12.2014 to the authorities for grant of lease hold rights. However, the authorities rejected the request made by the petitioner. Aggrieved over the same, the petitioner filed a Writ Petition in W.P.No.6199 of 2017 and according to the petitioner, the same is pending.

3.Since the petitioner and the 2nd respondent have encroached the Government land, they were issued with notices under the Tamil Nadu Land Encroachment Act. Against the order passed under Section 6 of the Act, the petitioner and the 2nd respondent filed an appeal before the District Collector, Tiruvallur and the District Collector dismissed the appeal. As against the order passed by the District Collector, the 2nd respondent preferred a Writ Petition and the same was disposed of on 17.08.2017 directing him to prefer a revision before the 1st respondent.

4.The petitioner contended that the revision filed by the 2nd respondent should be rejected and the representation given by the 2nd respondent to assign the land should also be rejected. Further, the petitioner contended that though he was present personally, along with his counsel, on the date of enquiry on 24.01.2019 and 14.02.2019, he was not permitted to represent and putforth his case. In these circumstances, the petitioner has filed the Writ Petition seeking for an opportunity of personal hearing in the proceedings.

5.So far as the revision filed by the 2nd respondent is concerned, the petitioner is a 3rd party. Therefore, he has no role to play in the revision filed by the 2nd respondent. Even with regard to the assignment of land in favour of the 2nd respondent is concerned, it is only the Government, which has to decide whether or not to give the land in assignment.

6.That apart, the learned counsel appearing for the petitioner fairly admitted that there is no provision under the Act for giving an opportunity of personal hearing to a 3rd party.

7.When there is no provision in the Act for giving an opportunity of personal hearing to a 3rd party, the relief sought for in the Writ Petition cannot be granted.

8.In these circumstances, the petitioner, being a 3rd party to both the proceedings, cannot seek for an opportunity of personal hearing. The Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Land Administration,
Revenue Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

+1cc to Mr.C.Prabakaran , Advocate SR.No. 23904
W.P.No.7229 of 2019

ks co
A.SK(01/04/2019)



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