

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.12.2019

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

W.P.No.16872 of 2017

and

W.P.M.P.No.38048 of 2017

K.Baskar

..Petitioner

VS

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Deputy Inspector General of Registration,
Vellore-632 001.
3. The District Registrar,
Vellore Registration District,
Vellore.
4. The Tahsildar,
Cheyyar Taluk,
Thiruvannamalai District.
5. The Sub Registrar, Joint II,
Thiruvathipuram Sub Registrar Office,
Thiruvathipuram.

...Respondents

Writ Petition filed under Article 226, to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent vide letter No.948/Aa1/2017 dated 04.04.2017 and quash the same consequently directing the second respondent to cover the lands of the petitioner from the House site to the Agricultural lands based on the petitioner's representation dated 30.03.2017.

For Petitioner : Mr.M.Thamizhavel

For Respondents : Mr.P.P.Purushothaman

Government Advocate

For R2, R3 & R5

Mr.K.Ravi kumar

Additional Government Pleader

For R1 to R4

O R D E R

This Writ Petition has been filed challenging the order dated 04.04.2017. The petitioner had sought to convert his house site to Agricultural land, based on the petitioner's representation dated 30.03.2017.

2. It is the case of the petitioner that he is the absolute owner of 4.04 Acres of lands in at Kizhpudupakkam Village, Cheyyar Taluk, Thiruvannamalai District, bearing Survey Nos.158/2-40 cents, 158/3A - 30 cents, 158/3B-5 cents, 158/4-40 cents, 158/5-32 cents, 159/2 -76 cents, 159/3 76 cents, 161/1-5 cents including a well along with 5 HP Pumpset vide Service Connection No.153 and Survey No.161/2-9 cents, 161/3-68 cents, 162/1-D-5 cents measuring a total extent is 3 acres 92 cents lands, having purchased the same under a registered Sale Deed bearing registration No.5874/2012.

3. Apart from the above mentioned lands, the petitioner claims that he is the absolute owner of the land measuring 12 cents in S.No.162/1A, in all put together, he is the owner of 4 Acres and 4 cents. It is the case of the petitioner that he purchased the lands as agricultural lands. According to the him, due to drought, he was unable to cultivate the entire lands and therefore, he converted half of the lands, out of 4 Acres and 4 Cents into house sites.

4. According to him, 2 Acres of land were converted as house sites and remaining portion of land were used by him only for agricultural purposes. Since the fifth respondent treated the entire lands as house sites, the petitioner gave a representation dated 30.03.2017 to the first and third respondents, requesting them to convert the remaining extent of lands in his possession into agricultural lands instead of house sites. However, by the impugned order dated 04.04.2017, the second respondent rejected the representation of the petitioner by stating that already 4.04 Acres of land has been changed into house sites and named as ''Sri Lakshmi Garden''. The guideline value of the said lands has been fixed on the basis that the subject lands are house sites and further in the impugned order, it is stated that since betel nuts trees are standing in 2 Acres of land, and there is also a well in the land, the representation of the petitioner cannot be accepted.

5. Aggrieved by the impugned order dated 04.04.2017 passed by the second respondent, this Writ Petition has been filed.

6. Heard Mr.M.Thamizhavel, learned counsel for the petitioner and Mr.K.Ravikumar, learned Additional Government Pleader for the respondents 1 and 4 and Mr.P.P.Purusothaman, learned Government Advocate appearing for the respondents 2,3 and 5.

7. Admittedly, the subject lands were earlier agricultural lands converted into house sites. The petitioner sold 2 acres of land out of 4 Acres and 4 cents as house sites. The guideline value of the subject property has been admittedly fixed by the respondents only on the basis that the subject property is a house site. It is the case of the petitioner that only due to drought, he had to sell 2 Acres of land out of 4 Acres and 4 Cents as house sites. The learned counsel for the petitioner submitted that after the sale of 2 Acres of land, a ban has been imposed by the Government for conversion of agricultural lands into house sites. It is the petitioner's case that they are continuing to do agricultural operations in the remaining extent of lands measuring about 2 Acres and 4 Cents. The petitioner has given a representation dated 30.03.2017 to the first and third respondents, requesting them to convert the lands measuring 2 Acres and 4 Cents into agricultural lands, since the petitioner is using the same only for that purpose. However, by the impugned order dated 04.04.2017, the second respondent has rejected the request made by the petitioner on the ground that the lands measuring 4 Acres and 4 Cents have already been changed into house sites and named as Sri Lakshmi Garden. In the impugned order, they have also observed that in 2 Acres of land betel nut trees are standing and there is also a well in the land. On these grounds, the second respondent has rejected the representation dated 30.03.2017 given by the petitioner for conversion.

8. A categorical stand has been taken by the petitioner that he is using the subject lands only for agricultural purposes.

9. Admittedly, even prior to the sale of 2 Acres of land by the petitioner, the entire extent of 4 Acres and 4 Cents were classified as agricultural lands. Only, after the sale, the entire extent of land measuring 4 Acres and 4 Cents were converted as house sites. But, however, as seen from the impugned order, the second respondent has not considered all these factors which ought to have been considered by them before passing the final orders, in the representation dated 30.03.2017, given by the petitioner. The non-consideration amounts to violation of principles of natural justice by the second respondent.

10. Except for stating that the subject lands measuring 4 Acres 4 Cents have already been converted into house sites and there are Betel Nut Trees found in 2 Acres of land and there is a well, the Second respondent, before passing impugned order, has not taken into consideration,

a) the ban imposed by the Government of Tamil Nadu for conversion of agricultural lands into house sites; and

b) has also not personally inspected the petitioner's land before coming to a conclusion that the petitioner is not entitled for conversion of the classification of lands from house sites to agricultural lands.

11. In the result, the impugned order dated 04.04.2017 is quashed and the matter is remanded back to the second respondent for fresh consideration of the petitioner's representation dated 30.03.2019 in accordance with law, after giving sufficient opportunities to the petitioner to place all evidence available by him by establishing that the subject lands are agricultural lands.

The respondents 2 and 3 are directed to pass final orders within a period of eight weeks from the date of receipt of a copy of this order.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2. The Deputy Inspector General of Registration,
Vellore-632 001.

3. The District Registrar,
Vellore Registration District,
Vellore.

4. The Tahsildar,
Cheyyar Taluk,
Thiruvannamalai District.

5. The Sub Registrar, Joint II,
Thiruvathipuram Sub Registrar Office,
Thiruvathipuram.

+1 CC to Mr.M.Thamizhavel, Advocate sr 105094.

+1 CC to Govt. Pleader sr 105821, 105784, 105307.

W.P.No.16872 of 2017
and
W.P.M.P.No.38048 of 2017

SPD(CO)
SP(31/01/2020)



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