



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2020

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.28051 of 2016 and
W.M.P.No.24207 of 2016
(Heard through Video Conferencing)

N.R.Ramalingam ... Petitioner

Vs.

1.The District Collector,
Nagapattinam.

2.The Revenue Divisional Officer,
Nagapattinam.

3.The Tahsildar,
Vedaranyam Taluk,
Nagapattinam District.

4.The Executive Officer,
A.M. Sri Vedaranyaswamy Temple,
Vedaranyam,
Nagapattinam.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus, calling for the records of the first respondent in RCNo.39413/2008 F1 dated 01.09.2015 and to quash the same and consequently direct the issue of patta in the name of the petitioner for the dry lands to the extent of around 75 acres in survey numbers 72, 74/1, 75/1, 76/1, 77/1, 78/1, 79/2, 80/1, 81/1, 82, 83, 84, 85, 86,87,88,89, 90, 91, 92, 95, 96, 97 and 99/2 in Kodiyakarai Village, Vedaranyam Taluk, Nagapattinam District.

For Petitioner : Ms.I.Bobby Portia

For Respondents 1 to 3 : Ms.A.Madhumathi,
Special Government Pleader

For 4th Respondent : Mr.Karthikeyan



ORDER

Heard Ms.I.Bobby Portia, learned counsel for the petitioner; Ms.A.Madhumathi, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.Karthikeyan, learned counsel for the fourth respondent.

2.The petitioner has filed this writ petition praying for issuance of a writ of certiorarified mandamus to quash the order passed by the first respondent / District Collector, Nagapattinam dated 01.09.2015 and for a consequential direction to issue patta in the name of the petitioner in respect of certain dry lands mentioned therein measuring to an extent of 75 acres in Kodiyakarai Village, Vedaranyam Taluk, Nagapattinam District.

3.The petitioner claims that the lands in question came to his possession through his ancestors as they had involved in performance of Urchavams, festivals, Poojas etc., in the Vedaranyeswaraswamy Temple. For the services rendered which is called as "Uzhiam" (CHpak;), the forefathers of the petitioner were granted the lands in question and they were cultivating the same and simultaneously rendering services to the temple. The petitioner claims that he is entitled to the benefit of Tamil Nadu Act 30 of 1963.

4.Further, it is stated that the petitioner submitted a representation on 16.08.1995 to the third respondent, the Tahsildar Vedaranyam Taluk, stating that the lands in question are inam lands which have been formed by the erstwhile British Government stated to have been admitted by the Managing Trustee of the Devasthanam and the patta was wrongly given in the name of Devasthanam. This was followed by the another representation dated 06.03.2000 to the first respondent to cancell the patta granted in favour of the Devasthanam and issue patta in the name of the petitioner. Thereafter, the petitioner had submitted several representations and since they were not considered, the petitioner filed a writ petition in W.P.No.25846 of 2008 praying for a direction to the respondents therein to consider the petitioner's representation given on 16.08.2007 followed by several reminders given in the year 2007. The said writ petition was disposed of by order dated 10.11.2008 directing the District Collector to pass orders within a period of 12 weeks after giving opportunity to the petitioner and other persons likely to be affected and directing the petitioner and other affected persons to submit necessary documents to prove their right and possession of the property and further, the District Collector was restrained from taking any coercive action on the said lands which are found to be in possession of the petitioner and status



quo was directed to be maintained. Though the writ petition was disposed of on 10.11.2008, the direction was not complied with within the time stipulated by the Court. Hence, it is submitted that the petitioner filed a contempt petition in Cont.P.No.1699 of 2014 and the District Collector was directed to appear in person before the Court. At that time, the District Collector is stated to have issued notice to the petitioner for enquiry on 27.08.2015 and alleging that the petitioner did not appear, he postponed the enquiry to 31.08.2015 and since the petitioner did not appear, the impugned order dated 01.09.2015 came to be passed. Though in the affidavit filed in support of the writ petition and in the arguments advanced by the learned counsel for the petitioner, several contentions have been raised on the merits of the matter, the learned counsel emphasise that the impugned order has been passed in utter disregard with the directions issued by the Court in the earlier writ petition. The learned counsel would further state that the petitioner did not receive the notice fixing the enquiry on 27.08.2015 and on the said date, the petitioner is stated to have been in Chennai attending the enquiry of the Contempt case. Similarly, it is stated that the petitioner had no opportunity to know about the enquiry which was fixed on 31.08.2015. Therefore, the learned counsel would submit that if an opportunity would be given to the petitioner he would be able to establish his right, title and interest over the property in question.

5.The learned Special Government Pleader appearing for the respondents 1 to 3 on the other hand would submit that no useful purpose would be served in remanding the matter for a fresh decision because, the first respondent cannot decide the question of title of the property and if the petitioner is aggrieved, the only remedy available is to approach the Civil Court. Further, it is pointed out that during the pendency of the writ petition, the petitioner submitted a representation on 26.12.2019 to the first respondent who in turn by proceeding dated 10.01.2020 directed the Tahsildar, Vedaranyam Taluk to conduct an enquiry into the matter after giving an opportunity to the fourth respondent temple.

6.Heard the learned counsel for both parties and carefully perused the materials on record.

7.In the counter affidavit filed by the first respondent, there is no explanation as to why the order and direction issued in W.P.No.25846 of 2008 dated 10.11.2008 was not complied with within the time frame fixed by this Court. It is seen that after the period of seven years, the first respondent is stated to have taken action.



8.The learned counsel for the petitioner is right in her submission that the so called enquiry was fixed only for the purpose of not being punished for contempt of Court. Be that as it may, the impugned order is an exparte order and admittedly the petitioner did not have effective opportunity to place the records which he claims to be in possession. Furthermore, the fourth respondent temple is stated to have produced some records before the first respondent and the petitioner was not aware of 'what was the nature of the records produced by the temple' because, the fourth temple claims that the lands in question were never leased out either to the petitioner or to his forefathers and the revenue records stands in the name of Devasthanam and the Devasthanam is in possession of the property.

9.Further, the suit filed by the petitioner in O.S.No.189 of 2008 on the file of the District Munsif Cum Judicial Magistrate Court, Vedaranyam was dismissed by judgment and decree dated 07.04.2011 rejecting the claim for permanent injunction. In the considered view of this Court, since, there was a direction issued in an earlier writ petition, the same had to be complied with in letter and spirit and the petitioner was entitled to an opportunity, the Court directed that opportunity to be given to the petitioner and the persons who are likely to be affected. Further more, the records produced by the fourth respondent temple appears to be the basis of the decision taken by the first respondent and the petitioner did not have any opportunity to controvert the same.

10.All these things would go to show that the impugned order is vitiated on account of violation of principles of natural justice and failure to provide opportunity to the petitioner much less adequate opportunity. Hence, for that reason alone, this Court is inclined to interfere with the impugned order without making any observations on the merits of the petitioner's case.

11.In the result, the writ petition is allowed; the impugned order is set aside and the matter is remanded to the first respondent for fresh consideration. The first respondent is directed to issue notice to the petitioner and the fourth respondent temple, giving reasonable time; conduct enquiry and direct the Tahsildar concerned to produce all records and if necessary also call for an inspection report of the property in question and after considering the documents that the petitioner and the fourth respondent temple may produce; pass fresh orders



on merits and in accordance with law, within a period of four months from the date on which the copy of this order is received by the office of the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Nagapattinam.
- 2.The Revenue Divisional Officer,
Nagapattinam.
- 3.The Tahsildar,
Vedaranyam Taluk,
Nagapattinam District.
- 4.The Executive Officer,
A.M. Sri Vedaranyaswamy Temple,
Vedaranyam,
Nagapattinam.

W.P.No.28051 of 2016

sai[col]
srg 14/07/2020